

COUNTY OF KERN
KERN BEHAVIORAL HEALTH
AND
RECOVERY SERVICES

REQUEST FOR PROPOSAL
TO PROVIDE PHARMACY SERVICES

DUE OCTOBER 25, 2024

TIME Before 11:00 a.m.

COUNTY OF KERN

KERN BEHAVIORAL HEALTH AND RECOVERY SERVICES

Request for Proposal to Provide: Pharmacy Services

The County of Kern is seeking to provide Pharmacy Services in Kern County for behavioral health clients. Proposers are specifically directed not to contact any County personnel, other than the Contact Person indicated below, for any purpose related to this RFP. **Unauthorized contact of any County personnel may be cause for rejection of a vendor’s proposal.** All inquiries concerning this RFP should be directed to the following Contact Person:

Kern Behavioral Health & Recovery Services
2001 – 28th Street
Bakersfield, CA 93301
jscases@kernbhhs.org

Envelopes containing the Proposals are to be marked:

PROPOSAL: Pharmacy Services”

The following dates are set forth for information and planning purposes only. These dates may be changed by County upon notice to prospective proposers:

Issuance Date September 16, 2024
Pre-Proposal MeetingSeptember 30, 2024
Proposal Due Date October 25, 2024
Proposal Due Time Before 11:00 a.m.

Postmark date will not constitute timely delivery. Responses received after the above time **will not** be considered. Proposers are solely responsible for ensuring timely receipt of their Proposals. If hand delivery is planned to our offices, please be aware that delays through building security protocol should be planned for by the proposer since timely receipt of all Proposals is required.

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I. GENERAL INFORMATION

A. **Project Background**

Kern County spans 8,161 square miles in the San Joaquin Valley of California. The County is divided into eleven (11) Geographic Service Areas for serving individuals needing mental health care. The Kern Behavioral Health and Recovery Services (KernBHRS) administration office is located in Bakersfield, the county seat, in the southern region of the San Joaquin Valley.

The Department operates under the directorship of Ms. Alison Burrowes, MA, LCSW and is governed by the five (5) members of the Kern County Board of Supervisors (BOS). The Department strives to promote its mission statement, "Working together to achieve hope, healing, and a meaningful life in the community".

The Department consists of various Systems of Care to serve specific client populations. The Medical Services Division primarily serves all systems of care within Kern Behavioral Health and Recovery Services, specifically through contracting with and oversight of psychiatrists operating within the system, oversight of outpatient nursing and medical assistants operating within the system, programs that provide supplemental services throughout the system of care and direct care coordination with the Medi-Cal Managed Care Plans operating in Kern County.

The Department's goal is to ensure the citizens of Kern County who are afflicted with mental and behavioral health disorders are provided with services and resources necessary for their treatment and recovery. The Department utilizes the services of contracted providers for mental and behavioral health treatment services for adults and minors in most geographic areas throughout Kern County.

This Request for Proposal (RFP) is seeking qualified community pharmacy or pharmacies to provide prescription dispensing services for one, some or all of the geographic areas within Kern County to coincide with behavioral health and substance use service provision in those areas by Kern County Behavioral Health and its contracted community behavioral health partners. Prescription pharmacy services shall include but not be limited to dispensing, intramuscular injections, delivery, mailed prescriptions and TAR completion. The Department expects to spend approximately \$1,000,000.00 per fiscal year for these services.

Three Agreements will be negotiated between BHRS and the prospective service provider and approved by the Kern County Board Of Supervisors prior to service delivery. Service delivery shall begin on July 1, 2025.

Additionally, the successful proposer will be required to comply with the following prior to proceeding with performing the provisions of the contract:

1. Disclosure of Ownership: provide disclosures of ownership and control. A Disclosure of Ownership form will be provided to the successful contractor by KernBHRS once a contract is awarded.
2. Screening for Ineligible and Suspended Employees and Entities (Exclusions): evidence that the contractor is not identified on the List of Excluded

Individuals/Entities (LEIE), the General Services Administration Excluded Parties List System (SAM-EPLS), the DHCS Medi-Cal List of Suspended or Ineligible Providers nor the Social Security Administration's Death Master File (SSA DMF), and that the contractor will not employ individuals or contract with individuals or vendors that are excluded from participation in Federal health care programs. Additionally, KernBHRS has a process in place to verify the accuracy of new and current (prior to contracting with and periodically) providers and contractors in the National Plan and Provider Enumeration System (NPPES).

3. Credentialing Requirements: evidence that the assigned staff to perform the services under the provisions of the signed contract as a result of this RFP are:
 - Qualified in accordance with current legal, professional, and technical standards and are appropriately licensed, registered, waived and/or certified.
 - Must be in good standing with the Medicaid/Medi-Cal programs.
 - Any staff excluded from participation in Federal health care programs, including Medicare or Medicaid/Medi-Cal, may not participate in performing the provisions of the signed contract as a result of this RFP.
4. Pre-Award Risk Assessment: this form is an evaluation of the proposer's history, performance, financial status, and the management systems of the organization. This tool allows KernBHRS to determine if adequate systems are in place to appropriately account for allowable and unallowable costs, documentation of expenditures, allocation of costs, cash management, and internal controls.
5. W-9: a completed W-9 form identifying the business entity, federal tax classification and tax identification number (either SSN or EIN).
6. Corporate Compliance: evidence of a comprehensive Corporate Compliance Program that includes auditing, monitoring, and reporting methods designed to guard against fraud, waste, and abuse.
7. Credentialing, Exclusion Reporting and Corporate Compliance Form (CECC): a form to be completed by the successful contractor regarding credentialing, exclusion reporting and corporate compliance program.
8. Insurance Certificate: evidence of insurance as required by the County of Kern that includes all necessary endorsement forms and language to perform the provisions of the contract.

B. Services Required of Successful Proposer

BHRS has developed the attached sample **Exhibit A, Description and Standards of Services** which fully describes the scope of work and services required; deliverables; benchmark requirements; and our anticipated timeline for the start and completion of this project.

Proposer will be expected to review the Exhibit to understand the expected outcome, what the desired goals and objectives are, what specific problems and challenges need to be solved in order to achieve the required end result. **Detailed description is available in the sample Exhibit A, Description and Standards of Services.**

C. Services Provided by the County

The County will provide a Contact Person as a primary contact, who will arrange for staff assistance by other County staff as may be required. County will also provide whatever information as may be available. County will also be available to meet and discuss project requirements and development at key times in the process.

D. Selection Process

1. **All Proposals received by the specified deadline will be reviewed by a County Evaluation Committee.** After the initial scoring, the Evaluation Committee may select those firms deemed most qualified for this project for further evaluation. Interviews of these selected firms may be conducted as part of the final selection process. Proposers are advised that the County, at its option, may award a contract strictly on the basis of the initial Proposals, and not create a short list of Proposals for further consideration. The firm selected by the Evaluation Committee will be recommended to the Board of Supervisors for this project, but the Board is not bound to accept the recommendation or award the project to the recommended firm.

2. If one or more of the proposers is a local vendor as defined herein, said proposer(s) shall be entitled to a local vendor preference as herein described, provided: (i) said proposer(s) achieved a score of at least seventy percent (70%) during the initial scoring phase by the Evaluation Committee; and (ii) they were included in the short list of proposers for further consideration by the Evaluation Committee, if the Evaluation Committee elected to create a short list of Proposals.

All local vendors meeting the above stated criteria shall have their final evaluation score increased by five percent (5%) for purposes of determining the Evaluation Committee's final selection for recommendation to the Board of Supervisors.

A local vendor is defined as a proposer who:

- (a) Has had a fixed office or distribution point located in and having a street address within the county for at least six (6) months immediately prior to the issuance of the request for competitive bids by the purchasing agent

- (b) Holds any required business license by the county or a city within the county; and

- (c) Employs at least one (1) full-time or two (2) part-time employees whose primary residence is located within Kern County, or if the business has no employees shall be at least fifty percent (50%) owned by one or more persons whose primary residence is located within Kern County.

All local vendors with a Local Employee Ratio of 50% or higher will receive an additional 2% score increase, and those with a ratio of 100% will receive a 3% increase to their score. (Rev 11/19)

- (d) Will credit all sales taxes generated pursuant to the contract awarded as a result of the application of this local vendor preference to its business location in Kern County.

This local vendor preference shall not apply to any contracts funded in whole or in part with federal or state funds which do not allow the use of local preferences, or any other contracts which are statutorily or otherwise precluded from the use of local preferences during the selection process.

At-Risk Employer Preference

Per County Ordinance 2.38.132, the At-Risk Employer preference will be implemented. This ordinance provides a preference to local vendors who are also at-risk employers. If there is a tie for the low bid and both bidders are local vendors but one of the bidders is also an at-risk employer, the contract shall be awarded to the low bidder that is also the at-risk employer. In the event local vendors are allowed to submit a new bid equal to or less than the out of county low bidder, and there is a tie for the low bid and one of the responsible low bidders is also an at-risk employer, the local vendor who is also an at-risk employer will be awarded the contract

To qualify as an “At-Risk Employer,” Vendor shall state below that you have provided gainful employment to “at-risk” individuals residing in Kern County for at least one (1) year prior to submitting this bid; and you continue to provide gainful employment to ‘at-risk individuals. “At-Risk Individuals” are defined in County Ordinance 2.38.132 as those individuals who have been incarcerated within the last five (5) years and/or have been convicted of a misdemeanor or felony within the last five (5) years and/or are youth in foster care.

Vendor has employed at least one (1) at-risk individual residing in the County of Kern for at least one year prior to submitting a bid for this project and continues to provide gainful employment to at-risk individuals residing in the County of Kern.

- 3. The following is a list of general criteria that will be used by the Evaluation Committee in determining its recommendation to the Board of Supervisors. (Please note that the Evaluation Committee may consider other additional information they deem relevant in determining a recommendation to the Board of Supervisors and may give each of the criteria considered as little or as much weight as they consider appropriate.)
 - (a) Proposer’s understanding of the RFP requirements and end result.
 - i. Does proposal show comprehension of the scope of services and match Exhibit A requirements?
 - ii. Does proposal address all requested objectives & deliverables?
 - iii. Does proposal offer specific solutions that address problems & our desired objectives?
 - (b) Proposer’s proposed approach to tasks.
 - i. Does the approach show innovative or advanced techniques
 - ii. Does the approach make sense for this project?
 - iii. Does the proposal clearly define deliverables? Are they measurable and realistic?

- iv. Are there any apparent discrepancies or omissions in proposal?
 - v. Is the proposed transition or milestone implementation plans feasible?
- (c) Proposer's experience in similar projects.
- i. Does proposer have a proven track record with similar projects?
 - ii. Has proposer completed relevant or similar projects? What was the length of time performing services for these relevant projects?
 - iii. What is the overall exposure/experience of the proposer with government sector projects?
 - iv. Does proposal provide types, number & duration of current and previous contracts?
- (d) Fee OR proposed rates.
- i. Has proposer revealed and described all costs? Are there any hidden costs?
 - ii. How does the proposer implement cost control techniques? Are there any escalation clauses included?
 - iii. Does proposer list prior contracts that were conducted on time and within budget?
 - iv. Does proposal state length of time for firm pricing?
- (e) Estimated completion date(s) or required start date
- i. Does proposal describe transition start up tasks & time and/or milestone steps to negotiate contract, set up staffing/equipment requirements and begin services?
 - ii. Does proposal address any time frames mandated by law?
 - iii. Does proposal address the length of time to complete one-time services?
 - iv. Does proposal describe in detail each project phase and the time needed for completion?
 - v. Does the proposal benchmark critical events in the completion of the project?
- (f) Client references.
- i. Are proposer's referenced projects similar in size & scope?
 - ii. Do references report any negative aspects with their experience with proposer?
 - iii. Do references report proposer's capabilities in problem solving during project?
 - iv. Do references indicate successful billing/invoicing processes?
 - v. How did the reference award previous business to the proposer?
- (g) Qualifications of proposer's staff for the project.
- i. Does proposer offer a combination of experience, education, licensing, certification & background undertaking with similar projects relevant to our needs?
 - ii. Is the technical experience of proposer's personnel specific to the needs detailed in Exhibit A?
 - iii. Does proposer's response address productivity and utilization of staff/management assignments?
- (h) Any other factors the Evaluation Committee deems relevant, for example:

- i. Does proposal offer technology advances included in work approach?
 - ii. How feasible is the transition plan/milestone steps of proposer's plan?
 - iii. Other
4. The County reserves the right to reject any and all Proposals and to waive informalities and irregularities in any Proposals received. Absence of required information may render a Proposal non-responsive, in the sole discretion of the County, resulting in rejection of the Proposal.
5. The County may, during the evaluation process, request from any proposer additional information which the County deems necessary to determine the proposer's ability to perform the required services. If such information is requested, the Proposer shall be permitted five (5) working days to submit the information requested.
6. An error in the Proposal may cause the rejection of that Proposal; however, the County may, in its sole discretion, retain the Proposal and make any corrections it deems appropriate. In determining if a correction will be made, the County will consider the conformance of the Proposal to the format and content required by the RFP, and any unusual complexity of the format and content required by the RFP. If the proposer's intent is clearly established based on review of the complete Proposal submittal, the County may, at its sole option, correct an error based on that established content. The County may also correct obvious clerical errors. The County may also request clarification from a proposer on any item in a Proposal that County believes to be in error and make corrections accordingly.
7. The County reserves the right to select the Proposal which in its sole judgment best meets the needs of the County. The recommendation by the Evaluation Committee, and the final selection of a proposer by the Board of Supervisors, shall be based on any information and criteria the Evaluation Committee and Board consider relevant, which may include criteria not listed in paragraph 2 above. **The lowest proposed cost is not the sole criterion for recommending contract award.**
8. All proposers responding to this RFP will be notified of their selection or non-selection in writing.
 - a. **All proposers shall have seven (7) calendar days from the date of the written notice to submit any additional information not previously submitted to the County representative for final consideration.**
 - b. **Proposers may request a debrief during the same seven (7) daytime period. No extension will be given.**
9. The County representative will notify the proposers in writing of the date the Department's recommendation is placed on the Board of Supervisors' agenda.
10. County employees will not participate in the selection process when those employees have a relationship with a person or business entity submitting a Proposal which would subject those employees to the prohibition of Section 87100 of the Government Code. Any person or business entity submitting a Proposal

who has such a relationship with a County employee who may be involved in the selection process shall advise the County of the name of the County employee in the Proposal.

11. Any person or business entity which engages in practices which might result in unlawful activity relating to the selection process including, but not limited to, kickbacks or other unlawful consideration paid to County employees, will be disqualified from the selection process.
12. The process, procedures and evaluation criteria used by County in developing and issuing this RFP and evaluating the Proposals received for purposes of making a recommendation to the Board of Supervisors shall be determined in the sole discretion of the County. Potential proposers shall have no rights whatsoever regarding the processes and procedures used by the County relating to this RFP or the manner in which a proposer is selected by the Board of Supervisors, provided their decisions are not arbitrary and capricious, and there is some reasonable basis for the selection(s) made.

E. Solicitation Caveat

The issuance of this solicitation does not constitute an award commitment on the part of the County, and the County shall not pay for costs incurred in the preparation or submission of Proposals. **The County reserves the right to reject any or all Proposals or portions thereof if the County determines that it is in the best interest of the County to do so.**

Failure to furnish all information requested or to follow the format requested herein, or the submission of false information, may disqualify the proposer, in the sole discretion of the County. The County may waive **any** deviation in a Proposal. The County's waiver of a deviation shall in no way modify the RFP requirements nor excuse the successful proposer from full compliance with any resultant agreement requirements or obligations.

F. Time

Time and the time limits stated in this RFP are of the essence of this Request for Proposal.

G. Standard Agreement For Professional Services

No agreement with the County is in effect until a contract has been signed by both parties. Attached to this RFP as **Exhibit "B" is the Sample Standard Agreement For Professional Services** which are in substantially the form the successful proposer will be expected to sign. The final agreement may include the contents of the RFP, any addenda to this RFP, portions of the successful proposer's Proposal and any other modifications determined by the County to be necessary prior to its execution by the parties.

Until such time as the Evaluation Committee has completed its deliberative process and the matter has been set for consideration before the Board of Supervisors, the agreement and all documents and materials relating thereto, the negotiation and

execution thereof, including, without limitation, the existence of the Agreement and the negotiations taking place between the parties, shall be confidential.

The **Sample Standard Agreement for Professional Services** is included in this RFP is for informational purposes and should not be returned with a Proposal; however, the Proposal shall include a statement that the proposer has reviewed the **Standard Agreement for Professional Services** and either:

i) will agree to and accept the **Sample Standard Agreement for Professional Services** contained therein if selected, or

ii) indicate those specific provisions of the **Sample Standard Agreement for Professional Services** to which the proposer takes exception and why. Raising of significant exceptions in a Proposal, as determined in the sole discretion of the County, may be cause for rejection of the Consultant's Proposal.

The selected Consultant will be required to execute an agreement with the County for the services requested **within 30 calendar days** of the award. If agreement on the terms and conditions of the contract that are acceptable to the County including, but not limited to, compensation, cannot be achieved within that timeframe, the County reserves the right to continue negotiations or to award the bid to another Consultant and begin negotiations with that Consultant.

Consultant must identify and provide contact information in their Proposal of the individual within their organization who is authorized to negotiate the terms and conditions of any agreement between Consultant and County.

H. Insurance Requirements

Vendor, in order to protect County and its board members, officials, agents, officers, and employees against all claims and liability for death, injury, loss and damage as a result of Vendor's actions in connection with the performance of Vendor's obligations, as required in this Agreement, shall secure and maintain insurance as described below.

Vendor shall not perform any work under this Agreement until Vendor has obtained all insurance required under this section and the required certificates of insurance and all required endorsements have been filed with the County's authorized insurance representative.

Receipt of evidence of insurance that does not comply with all applicable insurance requirements shall not constitute a waiver of the insurance requirements set forth herein. The required documents must be signed by the authorized representative of the insurance company shown on the certificate. Upon request, Vendor shall supply proof that such person is an authorized representative thereof and is authorized to bind the named underwriter(s) and their company to the coverage, limits and termination provisions shown thereon.

The Vendor shall promptly deliver to the County's authorized insurance representative a certificate of insurance, and all required endorsements, with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the term specified herein. Such certificates and endorsements shall be

delivered to the County's authorized insurance representative prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof if so requested. Vendor shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any claim by Vendor or County as an additional insured.

a. Workers' Compensation and Employers Liability Insurance Requirement:

In the event Vendor has employees who may perform any services pursuant to this Agreement, Vendor shall submit written proof that Vendor is insured against liability for workers' compensation in accordance with the provisions of section 3700 of the California Labor Code.

Vendor shall require any sub-contractors to provide workers' compensation for all of the subcontractors' employees, unless the sub-contractors' employees are covered by the insurance afforded by Vendor. If any class of employees engaged in work or services performed under this Agreement is not covered by California Labor Code section 3700, Vendor shall provide and/or require each sub-contractor to provide adequate insurance for the coverage of employees not otherwise covered.

Vendor shall also maintain employer's liability insurance with limits of **one million dollars (\$1,000,000) for bodily injury or disease.**

b. Liability Insurance Requirements:

(1) Vendor shall maintain in full force and effect, at all times during the term of this Agreement, the following insurance:

(a) Commercial General Liability Insurance including, but not limited to, Contractual Liability Insurance (specifically concerning the indemnity provisions of this Agreement with the County), Products-Completed Operations Hazard, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of Vendor's performance of work under this Agreement. The Commercial General Liability insurance shall contain no exclusions or limitation for independent contractors working on the behalf of the named insured. Vendor shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by law following termination of this Agreement. The amount of said insurance coverage required by this Agreement shall be the policy limits, which shall be at least **one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) aggregate.**

(b) Automobile Liability Insurance against claims of Personal Injury (including bodily injury and death) and Property Damage covering any vehicle and/or all owned, leased, hired and non-owned vehicles used in the performance of services pursuant to this Agreement with coverage equal to the policy limits, which shall be at least **one million dollars (\$1,000,000) each occurrence.**

(c) Professional Liability (Errors and Omissions) Insurance, for liability arising out of, or in connection with, the performance of all required

services under this Agreement, with coverage equal to the policy limits, which shall not be less than **one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate.**

- (2) The Commercial General Liability and Automobile liability Insurance required in this sub-paragraph b. shall include an endorsement naming the County and County's board members, officials, officers, agents, and employees as additional insureds for liability arising out of this Agreement and any operations related thereto. Said endorsement shall be provided using one of the following three options: (i) on ISO form CG 20 10 11 85; or (ii) on ISO form CG 20 37 10 01 plus either ISO form CG 20 10 10 01 or CG 20 33 10 01; or (iii) on such other forms which provide coverage at least equal to or better than form CG 20 10 11 85.
 - (3) Any self-insured retentions in excess of \$100,000 must be declared on the Certificate of Insurance or other documentation provided to County and must be approved by the County Risk Manager.
 - (4) If any of the insurance coverages required under this Agreement is written on a claims-made basis, Vendor, at Vendor's option, shall either (i) maintain said coverage for at least three (3) years following the termination of this Agreement with coverage extending back to the effective date of this Agreement; (ii) purchase an extended reporting period of not less than three (3) years following the termination of this Agreement; or (iii) acquire a full prior acts provision on any renewal or replacement policy.
- c. Cancellation of Insurance -- The above stated insurance coverages required to be maintained by Vendor shall be maintained until the completion of all of Vendor's obligations under this Agreement except as otherwise indicated herein. Each insurance policy supplied by the Vendor shall not be suspended, voided, cancelled or reduced in coverage or in limits except after ten (10) days written notice by Vendor in the case of non-payment of premiums, or thirty (30) days written notice in all other cases. This notice requirement does not waive the insurance requirements stated herein. Vendor shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.
 - d. All insurance shall be issued by a company or companies admitted to do business in California and listed in the current "Best's Key Rating Guide" publication with a minimum rating of A-; VII. Any exception to these requirements must be approved by the County Risk Manager.
 - e. If Vendor is, or becomes during the term of this Agreement, self-insured or a member of a self-insurance pool, Vendor shall provide coverage equivalent to the insurance coverages and endorsements required above. The County will not accept such coverage unless the County determines, in its sole discretion and by written acceptance, that the coverage proposed to be provided by Vendor is equivalent to the above-required coverages.

- f. All insurance afforded by Vendor pursuant to this Agreement shall be primary to and not contributing to all insurance or self-insurance maintained by the County. An endorsement shall be provided on all policies, except professional liability/errors and omissions, which shall waive any right of recovery (waiver of subrogation) against the County. A waiver of right of recovery (waiver of subrogation) is only required on Workers' Compensation policies when a vendor's personnel deliver or perform services for the County while on County property.
- g. Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve Vendor for any liability, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall it preclude the County from taking such other actions as are available to it under any other provision of this Agreement or otherwise in law.
- h. Failure by Vendor to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by Vendor. County, at its sole option, may terminate this Agreement and obtain damages from Vendor resulting from said breach. Alternatively, County may purchase such required insurance coverage, and without further notice to Vendor, County shall deduct from sums due to Vendor any premiums and associated costs advanced or paid by County for such insurance. If the balance of monies obligated to Vendor pursuant to this Agreement are insufficient to reimburse County for the premiums and any associated costs, Vendor agrees to reimburse County for the premiums and pay for all costs associated with the purchase of said insurance. Any failure by County to take this alternative action shall not relieve Vendor of its obligation to obtain and maintain the insurance coverages required by this Agreement.

I. Modifications to Scope of Work

In the event that sufficient funds do not become available to complete all the services identified in this RFP, the scope of services may be amended, as determined in the sole discretion of the County. The County may also, from time-to-time, request changes in and/or additions to the services to be provided by the successful proposer. Such changes, including any increase or decrease in compensation, which are mutually agreed upon by and between the County and the successful proposer, shall be incorporated into the contract prior to execution of the contract, and by written amendments thereto after execution.

J. News Releases

News releases pertaining to any award resulting from this RFP may not be made without prior written approval of the **Director of Kern Behavioral Health & Recovery Services**.

K. Compensation

Compensation shall be agreed upon by County and Vendor to be included in the final agreement for services.

L. Statutes and Rules

The terms and conditions of this RFP, and the resulting consulting services and activities performed by the successful proposer, shall conform to all applicable statutes, rules and regulations of the federal government, the State of California and the County of Kern.

M. Background Review

The County reserves the right to conduct a background inquiry of each proposer that may include collection of appropriate criminal history information, contractual and business associations and practices, employment histories, reputation in the business community and financial condition. By submitting a Proposal to the County, the proposer consents to such an inquiry and agrees to make available to the County such books and records the County deems necessary to conduct the review.

N. Organizational Conflict of Interest

Contractor warrants, to the best of its knowledge, that neither Contractor nor its officers, agents or employees presently has any consulting or contractual arrangement with any firm or organization that would give rise to an organizational conflict of interest with respect to the work to be performed under this Agreement. Neither Contractor nor its officers, agents or employees shall enter into any contractual arrangement that would give rise to any potential conflict of interest, without first obtaining County's prior written approval before entering the agreement. If any organizational conflict of interest is discovered by Contractor relating to this Agreement, Contractor shall immediately notify County, and attempt to present a suitable mitigation plan. County may, at its sole discretion, terminate this agreement in the event that Contractor has any actual or potential organizational conflict of interest. As used in this paragraph, "**Organization conflict of interest**" means any relationship whereby Contractor has present or planned interests related to the work to be performed under this Agreement which: (1) May diminish its capacity to give impartial, technically sound, objective assistance and advice or may otherwise result in a biased work product, or (2) may result in its being given an unfair advantage.

II. PROPOSAL INFORMATION AND REQUIREMENTS

A. General Instructions

To receive consideration, Proposals shall be made in accordance with the following general instructions:

1. The completed Proposal shall be without alterations or erasures. Errors may be crossed out and corrections printed in ink or typed adjacent and must be initialed in ink by an authorized representative of the proposer.
2. No oral, telephonic, telegraphic, e-mailed, or faxed Proposals will be considered.
3. The submission of a Proposal shall be an indication that the proposer has investigated and satisfied him/herself as to the selection process to be used by the

County, the conditions to be encountered, the character, quality, and scope of the work to be performed, and the requirements of the County.

4. All Proposals shall remain firm for one hundred and eighty (180) days from the Proposal submission deadline.

B. Business Address

Proposers shall furnish their business street address. Any communications directed either to the address so given, or to the address listed on the sealed Proposal container and deposited in the U.S. Postal Service by Certified Mail, shall constitute a legal service thereof upon the proposer.

C. Corrections and Addenda

If a proposer discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFP, the proposer shall immediately notify the Contact Person of such error in writing and request clarification or modification of the document. Modifications will be made by addenda as indicated below to all parties in receipt of this RFP.

If a proposer fails to notify the Contact Person prior to the date fixed for submission of Proposals of a known error in the RFP, or an error that reasonably should have been known, the proposer shall submit a Proposal at their own risk, and if the proposer is awarded a contract they shall not be entitled to additional compensation or time by reason of the error or its subsequent correction.

Addenda issued by the County interpreting or changing any of the items in this RFP, including all modifications thereof, shall be incorporated in the Proposal. The proposer shall sign and date the Addenda Cover Sheet and submit same with the Proposal (or deliver them to **Jewelle Scales, Kern Behavioral Health & Recovery Services, 2001 28th Street, Bakersfield, CA 93301**, if the proposer has previously submitted a Proposal to the department).

Any oral communication by the County's designated Contact Person or any other County staff member concerning this RFP is not binding on the County and shall in no way modify this RFP or the obligations of the County or any proposers.

D. Proposal Format and Contents

- The length of the proposal should be no longer than 25 - 30 pages.
- Please use complete sentences for each section of the proposal.
- Please Arial font and the font size should be 12.
- Please do not include Patient Health Information in this or any other section of your proposal. This will be grounds for immediate disqualification from the RFP process.
- For ease of review and to facilitate evaluation, the Proposals for this project must be organized and presented in the order requested as follows (**no exceptions**):

1. Cover Page:

Clearly indicate the RFP project title and the name of the firm on the cover page. For example:

**Request For Proposals For Bee Keeping Services
Submitted By: John Doe Organization
James Smith, Chief Operating Officer**

2. Introduction (1 single space page)

Include a letter of introduction about your organization signed by an authorized representative of the firm.

In your introductory statement please include the following language at the end of your introductory statement.

“The undersigned certifies that all statements in the Proposal are true and correct; and that any material false statement contained in this proposal shall entitle Kern County to pursue any and all remedies authorized by law and/or declare any contract made as a result thereof, to be void.”

3. Corporate/Agency Profile (1/2 single space page):

Provide specific information concerning the firm in this section, including all of the following:

- The legal name, address and telephone number of your company
- The type of entity (sole proprietorship, partnership, or corporation and whether public or private).
- Whether you are a local Kern County vendor as defined in section I.D.2. of this RFP (provide the street address of the local office).
- The name and telephone number of the person(s) in your company authorized to execute the proposed contract.

4. Organization's Qualifications and Experience:

Section 4A (1-2 single space pages):

This section is designed to establish the proposer as an organization with the qualifications and experience to operate the program, or provide the services, as specified in the RFP's scope of work, **Exhibit A, Description and Standards of Services**.

In this section, the proposer must provide specific information concerning the organization's qualifications and experience (e.g., skill sets, contractor licensing, certifications etc.) in the services specified in the RFP's scope of work, **Exhibit A, Description and Standards of Services**, preferably within the State of California.

Please include the following header's of information in this section (in this order):

Header #1: The number of staff (key and non-key) involved in providing services

Header #2: Number of years the organization has been providing services

Header #3: Skill sets that organization uses in providing services

Header #4: Contractor licensing, if applicable

Header #5: Certifications, if applicable

Header #6: Examples of completed projects

Header #7: Financial statements (balance sheet and Dun & Bradstreet credit rating acceptable)

How to obtain Dun & Bradstreet (D&B) credit scores

- The first step on how to get a D&B rating is to create a D-U-N-S number — which you can request online. In some cases, you might find that your number has already been created for you based on searches by your suppliers, clients or lenders.
- Once the D-U-N-S number is created, you can establish your business credit file and sign up for CreditSignal, which alerts you when there are changes to your score.
- Full reports are behind a paywall, which requires you to sign up for one of the packages.

Section 4B:

Documentation of Satisfactory Past Performance/References

Provide a minimum of three (3) reference letters for similar services rendered (must be within the last twelve (12) months on the reference **company's letterhead**).

Each reference shall include a current point of contact and a phone number.

Each reference letter must have all the following information:

- Date of the original contract;
- End date of the contract;
- Services rendered;
- Names, addresses, email and telephone numbers of contact persons within organizations /agencies for whom the services have been provided.

Note: Organizations will lose points if the references are not on the company's letterhead, providing the reference.

Section 4C:

Provide a list of all organizations with current contact information including email, to which you have provided similar services over the last two years but are not currently working for. Please indicate why you are not currently providing services to said organization(s).

Format Example:

Name Of The Organization:

Name Of The Contact:

Contact's Email Address:

Contact's Phone Number:

Why is your organization no longer providing services to this organization (Keep responses to 2 to 3 sentences):

5. Credentials/Resumes:

Of critical importance is the composition of the team proposed to provide services on this project. Credentials and resumes of the person(s) responsible for administering or providing the services must be provided.

In this section, include the following information:

An organizational chart displaying all the key personnel assigned to the project and/or delivery of services. **(1 page)**

Resumes of all key personnel assigned to the project and/or delivery of services as designated in the organizational chart.

Training certifications of all key personnel assigned to the project and/or delivery of services as designated in the organizational chart.

A summary of the statement of qualifications for each key personnel assigned to the project and/or delivery of services, in the organizational chart, to include the following **(2 to 3 single pages)**:

- General Experience as it relates to the project and/or delivery of services
- Education as it relates to the project and/or delivery of services

- Training as it relates to the project and/or delivery of services
- Credentials as it relates to the project and/or delivery of services

List subcontractors and/or consultant firms, if any, that you plan to use for this project and their relevant experience.

Format Example:

Name Of The Subcontractors and/or Consultant firms:

Contact Name:

Email Address:

Phone Number:

What is their relevant experience as it relates to the RFP's scope of work outlined in Exhibit A – Description and Standards of Service (Keep responses to 2 to 3 sentences):

6. Project Approach, Work Schedule, Transition Plan and Technology Requirements:

Note: As your organization drafts this section of the proposal, please answer each statement and ensure that your responses are no longer than 250 words.

a. Provide a detailed description of the project approach proposed by your organization to perform all required services as specified in the RFP's scope of work, Exhibit A – Description and Standards Of Services.

b. Provide a detailed description of the methodology proposed by your organization to perform all required services as specified in the RFP's scope of work, Exhibit A – Description and Standards Of Services.

c. Identify the deliverables that will be produced as specified in the RFP's scope of work, Exhibit A – Description and Standards Of Services.

d. Describe the actions that will be performed by your organization in order to comply and meet required benchmarks, performance standards and quality assurance measures.

e. Describe your organization's approach and/or methodology that will be used to address obstructions, constraints, or roadblocks that may occur in providing services.

f. Describe how your organization's Business and Work Environment will assist with the delivery of services as specified in the RFP's scope of work Exhibit A – Description and Standards Of Services.

g. Include specific details with regard to a work schedule which contains an aggressive plan describing how your organization will implement the services as specified in the RFP's scope of work Exhibit A – Description and Standards Of Services.

h. Only Answer If You Are Not The Existing Service Provider:

Include specific details with regard to a transition plan (e.g. from an existing provider to new provider) which contains an aggressive schedule that describes how your organization will start up the services as specified in the RFP's scope of work before [insert date].

i. Detail and describe security clearance and information technology requirements that your organization has in place to ensure HIPAA compliance.

j. Specify all software and computer technology that is anticipated to be used in rendering the services as specified in the RFP's scope of work Exhibit A – Description and Standards Of Services. If the Proposal includes the purchase of any software by the BHRS, provide a copy of any software license agreements that BHRS would be required to execute.

Note: Do not include brochures and advertisements in your Proposal

7. Cost of Service:

The Proposal shall clearly state all of the costs associated with the project, broken down by category of products and services, and all on-going costs for recommended/required products/services such as maintenance.

Note: Please use a budget template that reflects the abovementioned information. The department does not have a specific template.

The budget presented in this RFP is an estimate only. Awarding a contract as a result of this RFP is in no way guaranteeing that the County accepts and approves the submitted budget. The actual budget for each contract will depend on available funding at the time of contract award.

As a general rule, the County prefers a set price or hourly rate for the entire term of any contract. Price escalators such as the **Consumer Price Index** may also have a detrimental impact on the proposer's score determined by the Evaluation Committee and are disfavored by Kern County.

The project costs should include all expenses that will be charged to the County including but not limited to costs for shipping, insurance, communications, documentation reproduction, travel, taxes, etc. **Failure to not clearly identify all costs associated with the Proposal may be cause for rejection of the Consultant's Proposal.**

Note: Please use a budget template that reflects the abovementioned information. The department does not have a specific template.

8. Insurance:

The selected proposer will be required to obtain, as a condition of the award of a contract, and **the Proposal shall state that the proposer will obtain the insurance as required in the attached agreement.**

All insurance shall be issued consistent with the final Agreement with County. Insurance coverage at a minimum must be provided by a company or companies listed in the current "Best's Key Rating Guide" publication with a minimum of A-, VII rating, or in special circumstances, as pre-approved by the Risk Management Division of the Office of County Counsel. The selected proposer shall file with the Contact Person a Certificate(s) of Insurance stating the required coverages are in effect.

9. Additional Information:

a. Include any additional information and options that you feel may be advantageous to the County. Label options clearly and specify all costs and fees associated with each option.

b. Include any other information you believe to be pertinent but not required.

c. Attachments & Appendixes must be a part of the proposal and not sent as separate documents.

10. Confidential Information:

Proposers are cautioned that because the County is a public entity, materials designated as "confidential" may nevertheless be subject to disclosure. Proposers are advised that the County does not wish to receive confidential or proprietary information and that proposers are not to supply such information except when it is absolutely necessary.

IF CONFIDENTIAL INFORMATION IS SUBMITTED:

a. ALL CONFIDENTIAL INFORMATION MUST BE STAMPED WITH A "CONFIDENTIAL" WATERMARK AND PLACED IN A SEPARATE TABBED SECTION #9 OF THE RFP MARKED "CONFIDENTIAL".

b. Any documents labeled "CONFIDENTIAL" shall include the following statement signed and placed on the first page of the CONFIDENTIAL material:

"_____ (legal name of proposer) shall indemnify, defend and hold harmless the County of Kern, its officers, agents and employees from and against any request, action or proceeding of any nature and any damages or liability of any nature, specifically including attorneys' fees awarded under the California Public Records Act (Government Code §6250 et seq.) arising out of, concerning or in any way involving any materials or information in this Proposal that (legal name of proposer) has labeled as confidential, proprietary or otherwise not subject to disclosure as a public record."

By: _____

Date: _____

Confidential information as discussed in this section II.D.9 may include:

Technical Information

- a. Any trade secret, know-how, invention, software program, application, documentation, schematic, procedure, contract, information, knowledge, data, process, technique, design, drawing, program, formula or test data, work in progress, engineering, manufacturing, marketing, financial, sales, supplier, customer, employee, investor, or business information;
- b. Any non-public business information, including, without limitation, personnel data; correspondence with governmental agencies; historical customer information and data; historical cost information such as budgets and operating expenses and capital costs; and projected capital additions and operating cost information;

Financial Information

- a. Financial statements, business plans, strategic plans, proprietary market information, analyses, compilations and any other strategic, competitively sensitive or proprietary information shared between the parties as a result of the discussions contemplated by this Agreement;

Business Development-Related Information

- a. All trade secrets or proprietary information protected as intellectual property that relates to the business of the Vendor and is not generally available to the public, or generally known in the industry;
- b. Customers' identities and requirements, customer lists, suppliers' identities and products, pricing information, product price discount information, manufacturing processes and procedures, new product research, financial information not generally available to the public; and
- c. Any techniques, know how, processes or combinations thereof, or compilations of information, records, and specifications, utilized or owned by the vendor regarding business development, marketing, pricing, business methods, strategies, financial or other analyses, policies or business opportunities.

E. Disposition of Proposals and Proprietary Data

All materials submitted in response to this RFP become the property of the County. Any and all Proposals received by the County shall be subject to public disclosure and inspection, except to the extent the proposer designates trade secrets or other proprietary data to be confidential, after the Evaluation Committee has completed its deliberative process and either the proposer has been informed that they are not the vendor selected by the Evaluation Committee for recommendation to the Board of Supervisors, or the matter has been set for consideration before the Board of Supervisors, whichever comes first.

Material designated as proprietary or confidential shall accompany the Proposal and each page shall be clearly marked and readily separable from the Proposal in order to

facilitate public inspection of the non-confidential portion of the Proposal. Prices, makes, and models or catalog numbers of the items offered, deliverables, and terms of payment shall be publicly available regardless of any designation to the contrary. The County will endeavor to restrict distribution of material designated as confidential or proprietary to only those individuals involved in the review and analysis of the Proposals.

F. Post RFP Issuance

1. Questions

- a. Before pre-proposal meeting: Questions may be submitted by email to: **Jewelle Scales @ jcales@kernbhrs.org. No phone calls please, only written responses will be accepted.**
- b. After pre-proposal meeting: **An addendum will be issued with written responses to those questions where the answers may change the scope of services detailed in Exhibit "A.** Questions with content about the RFP process, where to mail response or other information not related to Exhibit "A" may be answered by the Project Facilitator as they are received.
- c. Subsequent to addenda: Questions received subsequent to the issuance of addenda and within the last week prior to the due date and time **may** be answered. **The County will accommodate these last-minute questions but will not guarantee that they will be answered if not submitted timely.**

2. Pre-Proposal Meeting

A Pre-Proposal meeting has been set for **September 16, 2024, at 10:00 a.m.** The meeting will be held via **Microsoft Teams Meeting**. All interested parties who may have questions or wish to participate in the pre-proposal meeting must email their contact information to **jcales@kernbhrs.org**. **The contact information must include:**

- **Organization name**
- **Name of the individual attending**
- **Phone number of the individual attending**
- **Email address of the individual attending**

3. Purpose Of Pre-Proposal Meeting

The purpose of the conference is to permit proposers an opportunity to ask questions and/or provide feedback to County staff on specifics of this RFP.

Preliminary answers may be given at the Pre-Proposal meeting. However, these responses are only preliminary and **will not be final until they are provided as an addendum to the RFP.**

While some input obtained at the meeting may be incorporated into the RFP via addenda, **remarks and explanations made at the meeting shall not change the**

provisions of the final RFP. All interested parties who may have questions are urged to attend.

G. Proposal Submission

The proposer shall **submit one (1) written copy of the Proposal and one (1) copy on thumb drive.** The thumb drive (virus free) must be a standard Microsoft Windows (Word, Adobe, Excel etc.) compatible format readable by the County; using word processing software that is Windows based, preferably Microsoft Word. Proposer agrees to be fully responsible for any damage caused by any materials submitted to County. Please submit all Proposals to:

Kern County General Services Division
REQUEST FOR PROPOSAL FOR:
PHARMACY SERVICES
1115 Truxtun Ave., 3rd Floor
Bakersfield, CA 93301
Telephone (661) 868-3000

Proposals may be delivered in person, by courier service or by mail to the address indicated above. **ALL PROPOSALS MUST BE SEALED AND RECEIVED BEFORE 11:00 A.M. on OCTOBER 25, 2024** at the above office and address. Proposals submitted after the above deadline will not be accepted. It is strongly suggested that any proposers intending to hand deliver a proposal on the last day for submission arrive at the General Services Division third floor main lobby at least ten (10) minutes prior to the proposal receipt deadline to receive a “test” time stamp to validate the official current time. The time stamp clock in the main lobby of General Services will be the official time. Any Proposal received at or after 11:00 a.m. will be returned unopened.

Only one (1) Proposal may be submitted from each proposer. For purposes of this RFP, a proposer is defined to include a parent corporation of the proposer and any other subsidiary of that parent corporation. If a proposer submits more than one (1) Proposal, all Proposals from that proposer shall be rejected.

RFP Proposals are not publicly opened.

H. Withdrawal and Submission of Modified Proposal

A proposer may withdraw a Proposal at any time prior to the submission deadline by submitting a written notification of withdrawal signed by the proposer or his/her authorized agent. The proposer must, in person, retrieve the entire sealed submission package. Another Proposal may be submitted prior to the deadline. A Proposal may not be changed after the designated deadline for submission of Proposals.

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EXHIBIT A - SCOPE OF WORK

EXHIBIT A – DESCRIPTION AND STANDARDS OF SERVICES

PHARMACY SERVICES

A. BACKGROUND

Kern Behavioral Health and Recovery Services provides prescription pharmacy services for indigent, undocumented, and AB 109 adult mental health clients who are eligible for mental health services but are unable to pay for their medications. The Department currently utilizes two (2) vendors to provide prescription pharmacy services to mental health clients throughout Kern County. These pharmacies are located in Central Bakersfield and North Bakersfield. They are open an average of nine hours a day, Monday through Friday with some providing limited Saturday coverage and have the capacity to deliver and/or mail prescriptions to clients as needed.

The Department spends an estimated 1.5 million dollars on prescription pharmacy services.

DESCRIPTION OF SERVICES

Contractor shall fill prescriptions for medications for Kern Behavioral Health and Recovery Services (KernBHRS) clients who have been authorized by the KernBHRS Authorization Unit to receive psychotropic medications prescribed by KernBHRS physicians. Only licensed employees of Contractor shall provide services.

B. SERVICE REQUIREMENTS

Prescription pharmacy services include, but are not limited to:

- a. Dispensing prescription medication
- b. Providing prescription medication consultation
- c. Filling/refilling prescription medication
- d. Providing injectable psychotropic medications on site
- e. Providing home or mail delivery of prescription medication
- f. Notifying the Department by phone or fax about prescriptions that have not been picked up by the client within ten (10) days
- g. Bubble packing prescription medication when requested
- h. Providing clients with information to facilitate the proper use of the medication(s)
- i. Dispensing Clozaril according to required manufacturer and County protocols

B. STANDARDS OF SERVICES

In order to provide services under this agreement, Contractor must comply with the following requirements:

1. Be licensed by the appropriate state and federal entities to fill prescription medications at a given location.
2. Upon request, provide copies of the licenses for staff who dispense prescriptions, including a statement of the method of credentialing.
3. Possess the knowledge to bill the correct funding source by:
 1. Adjusting from County-funded to Medi-Cal billing.
 2. Adjusting mixed prescriptions of County and Medi-Cal.
 3. Appropriately back-billing Medi-Cal for County-funded medications when clients enrolled in Department's programs are determined eligible for Medi-Cal benefits.
 4. Obtaining Treatment Authorization Requests (TARs) for Medi-Cal non-formulary medications.
4. Submit pharmacy claims directly to the Authorizations Unit at the following address:

Kern Behavioral Health and Recovery Services
Attn: Authorizations Unit
P.O. Box 1000
Bakersfield, CA 93302
5. Forward pharmacy claims to the Authorization Unit within two (2) weeks of service for processing by the Authorization Unit. For individuals who became Medi-Cal eligible after their medications were dispensed, a "Pharmacy Rescind Notification" will be issued to Contractor and the following will be required:
 - a. Contractor will forward the claim to Medi-Cal;
 - b. If the claim is denied by Medi-Cal, Contractor will:
 - i. Reconcile the Pharmacy Rescind Notification form to demonstrate any specific claims that were covered by Medi-Cal and any claims that require payment from KernBHRS.
 - ii. Include the Medi-Cal denial form for reference for claims unable to bill.
 - i. Fax both documents back to the Authorization Unit for confirmation of the updated claim and submission by the Authorization Unit to KernBHRS billing.
6. Dispense Clozaril according to required manufacturer and County protocols.
7. Maintain any programs, such as coupon programs, that can provide revenue savings.
8. Notify County by phone or fax of prescriptions that have not been picked up by the client within ten (10) days of the expected pick-up date.
9. Abide by the County-funded referral prescription authorization system and the County's formulary to minimize expense to County.

10. Provide all persons authorized to prescribe medications with facsimile (fax) number(s) that may be used to send prescriptions and otherwise facilitate communication between the prescribing physician and the pharmacy, thereby speeding service delivery to clients receiving the prescription service.
11. Provide, when requested, home or mail delivery of prescriptions.
12. Provide clients with consumer and drug information to facilitate the proper use of the medication(s).
13. Provide clients with their dispensed prescription(s) and any relevant information within twenty (20) minutes of submitting the prescription or refill request to the pharmacy staff, if the client is going to wait for the medication(s).
14. Assist in providing treatment to clients by exchanging clinical and other information concerning circumstances in which the medication may have an adverse effect; or if there appears to be a change in the pattern of prescriptions being ordered, including but not limited to, changes in the patterns or quantities which may affect the clients' well-being. Such information must be provided as soon as it becomes known to the pharmacy services provider(s).
15. Not bill County for any prescriptions that are not received by the SOC enrollee.
16. Bill any available insurance plans before billing County; County is to be considered the payer of last resort.
17. Dispense a seven (7) days supply of "bridge" medications for authorized clients who have been released from the Lerdo Detention Facility and have not had their insurance coverage reinstated to obtain full medication prescriptions.
 - a. All individuals receiving "bridge" medications shall be given the "Kern Behavioral Health and Recovery Services' Second Bridge Medication Authorization Request" form, attached herein as Exhibit D," by Contractor.
 - b. An additional three (3) weeks of medications shall be dispensed to the client upon Contractor's receipt of the Second Bridge Medication Authorization form from the client.

C. GENERAL REQUIREMENTS

Facility and Staff

Prescription pharmacy services shall be provided in a licensed pharmacy per requirements from the California State Board of Pharmacy. Staff shall consist of professionals licensed by the California State Board of Pharmacy that have experience dispensing prescription medications and providing prescription medication consultations. Staff shall also consist of professionals who are experienced in billing the appropriate funding sources for medications and preparing monthly reports requested by the Department.

Prescription Authorization

All requests for prescription pharmacy services must be approved via the Department's referral prescription authorization system. When medication has been approved for mental health clients, the Authorization Unit will notify the pharmacy via fax. All authorizations for prescription pharmacy services are time-limited and the pharmacy is expected to utilize the Department's drug formulary. Any deviations will be evaluated on a case by case basis.

Stock Orders

Pharmacies shall fill stock orders for those County providers who are required to maintain medications for emergency use. These providers include but are not limited to: Psychiatric Evaluation Center/Crisis Stabilization Unit (PEC/CSU) and designated adult outpatient sites.

Billing

Pharmacies must demonstrate their ability to bill, retroactively bill, and reverse bill the appropriate funding sources and/or insurance plans for authorized prescription pharmacy services.

Program Monitoring

The Department will monitor the quality of the facility and the delivery of prescription pharmacy services on a yearly basis using protocols developed by the Department. Organizations will be allowed thirty (30) days to correct any identified deficiencies. Organizations shall also establish/maintain financial records and an annual budget in accordance with generally accepted accounting principles.

Prescription Medication Discount Programs

Pharmacies must participate in prescription drug discount programs that provide and maximize cost savings for the Departments. These programs may include but are not limited to:

- a. 340B program for drug purchasing
- b. Coupon programs
- c. Discounted rates for volume

Documentation

Pharmacies must provide monthly written reports to the Department that include, but are not limited to the following information:

- a. The cost, per client, listed by medication and funding source
- b. The geographic service area of the client served
- c. The total number of prescriptions filled/refilled and cost (listed by medication)

Collaboration Membership

Pharmacies must participate in the Kern Behavioral Health Pharmacy meetings quarterly, to assist the Department in developing and improving the delivery of prescription pharmacy services to health behavioral health clients.

D. COMPENSATION

All payments are to be based on the following:

- a. County shall reimburse Vendor for services provided in accordance with Attachment “A” up to the maximum amount set forth in Attachment “B”, which is attached hereto and made a part hereof.

E. PERFORMANCE OUTCOME MEASURES

Effectiveness of services will be evidenced by the following performance outcome measures:

- 1. Patient Satisfaction Surveys shall be offered to all individuals receiving pharmacy services.
- 2. An overall satisfaction rating of eighty percent (80%) or greater for those individuals returning satisfaction surveys. Survey results are to be presented to KernBHRS on a quarterly basis.
- 3. One hundred percent (100%) of Contractor’s claims will be submitted per Paragraph B. 4. and 5. above.

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EXHIBIT B – SAMPLE AGREEMENT FOR PROFESSIONAL SERVICES

NOTE:

THIS IS AN EXCERPT OF A SAMPLE AGREEMENT. THE ACTUAL CONTRACT WILL BE PRESENTED AND DISCUSSED DURING CONTRACT NEGOTIATIONS.

AGREEMENT FOR PROFESSIONAL SERVICES

(COUNTY OF KERN – CONTRACTOR NAME)

(PHARMACY SERVICES)

THIS AGREEMENT is made and entered into on _____, by and between the County of Kern (“County”), a political subdivision of the State of California, as represented by the Behavioral Health and Recovery Services Department (“County”, “KernBHRS” or “Department”), and <<CONTRACTOR NAME>> (“Contractor”), a «LegalStatus», [whose principle place of business is] [with its principal place of business] located at <<Street Address>>, <<City>>, <<State>>, <<Zip>>. County and Contractor are referred to individually as a “party” and collectively as the “parties.”

WITNESSETH:

. Government Code sections 31000 and 53060 permit the County Board of Supervisors to contract for the furnishing of special services with individuals specially trained and experienced and competent to perform those services.

B. The Department requires a full continuum of Pharmacy Services in a treatment environment that maximizes the integration of the services for Kern County clients of diverse ethnic, racial, and social backgrounds.

C. County desires to engage Contractor to provide said services and Contractor, by reason of Contractor’s qualifications, experience, and facilities for doing the type of work herein contemplated, has offered to provide the required services in accordance with the terms set forth herein.

NOW, THEREFORE, IT IS AGREED between the parties hereto as follows:

1. TERM

This agreement shall commence on **July 1, 2025**, and shall remain in effect through **June 30, 2030** unless sooner terminated as hereinafter provided.

2. MODIFICATIONS OF AGREEMENT

Material changes to this agreement may be modified in writing only, signed by the parties in interest at the time of the modification.

3. STANDARDS OF SERVICE

A. Contractor shall provide the services and adhere to the standards of service described in Description and Standards of Services, which is attached hereto and made a part hereof. Failure to comply with the standards of service shall be deemed a material breach of this agreement and may result in termination of the agreement.

B. Contractor shall comply with all applicable regulations set forth by the California Department of Health Care Services (DHCS) and any other applicable governing bodies. By this reference, those regulations are made a part of this agreement. Additionally, County requires Contractor to provide proof of adherence to specific administrative and ethical principles in order to be eligible to contract with County. These principles are included in Additional Administrative and Ethical Requirements, which is attached hereto and made a part hereof. Failure to comply with all applicable regulations and principles shall be deemed a material breach of this agreement and may result in termination of the agreement.

C. Contractor shall not be required to provide, reimburse for, or provide coverage of, a counseling or referral service if Contractor objects to the service on moral or religious grounds. ([Section 1932\(b\)\(3\)\(B\)\(i\) of the Social Security Act, 42 Code of Federal Regulations \(“CFR”\) § 438.10\(g\)\(2\)\(ii\)\(A\)](#) and [438.102\(a\)\(2\).](#)) If there are any referrals to services or counseling that Contractor will not provide, Contractor shall inform KernBHRS prior to the execution of this agreement or at least thirty (30) days prior to the effective date during the performance of this agreement. Contractor shall provide the same information to potential beneficiaries before and during enrollment and to beneficiaries at least thirty (30) days prior to the effective date of the policy for any particular service.

4. COMPENSATION TO CONTRACTOR

A. County shall reimburse Contractor for services provided in accordance with Exhibit A up to the maximum amount set forth in the contracted fee schedule. Funds provided to Contractor may be from one or more of the funding sources detailed in the fee schedule; however, County may vary the allocated amount of each funding source within a budget unit, administratively, after notification to Contractor.

B. County shall compensate Contractor the **Average Wholesale Prices (AWP) or Twelve Dollars (\$12.00)**, whichever is greater. No additional compensation will be paid for secretarial, clerical support staff, or overhead costs.

C. In no event shall the maximum amount payable by County to Contractor, pursuant to this agreement, exceed the aggregate sum set forth in the fee schedule, unless the agreement is modified by formal amendment, duly executed by the parties.

D. The maximum contract funding shown in the fee schedule absolutely limits County’s liability to Contractor for services provided under this agreement, in total for the agreement as a whole, and individually for each funding source.

E. The maximum indirect cost rate allowable for this agreement is twenty percent (20%) of direct payroll and benefits. Should Contractor have significant subcontractor expense, KernBHRS may include the cost of the subcontractor in the basis for the calculation of the maximum indirect rate payable. Contractor shall be reimbursed the lower of actual indirect rate or 20% of direct payroll and benefits.

F. No funds paid to Contractor through this agreement shall be utilized to compensate employees of Contractor for overtime or compensatory time off, except to the extent that Contractor is required to pay for overtime or compensatory time off, pursuant to the Fair Labor Standards Act of 1938, 29 United States Code (USC) Section 201, et seq., or applicable state law.

1. Payments to Contractor shall be made only upon County’s receipt of a Claim for Payment form. Such claim shall be submitted to the Director of Kern Behavioral Health and Recovery Services, or his/her designee, within twenty-five (25) calendar days following the end of the month in which services are provided. Contractor’s Claim for Payment submitted beyond the twenty-five (25) day period may be

accepted at County's sole discretion. However, such claims must be filed no later than four (4) months following the month that services were rendered. Payment terms are net thirty (30) days from the date County Receives an acceptable Claim For Payment from Contractor.

G. This agreement is subject to County's annual appropriation process. In the event that funds representing Contractor's compensation and reimbursement for expenses of the services provided pursuant to this agreement are not appropriated within the approved County budget in any fiscal year, this agreement shall be deemed terminated and shall be of no further force or effect as of the date County's budget is approved. County will provide Contractor with thirty (30) days prior notice of any such action.

H. Contractor shall be liable for and accountable to County for any and all program funds improperly expended under this agreement by Contractor or any officer, employee, agent, or representative thereof, whether or not such officer, employee, agent or representative was acting within the scope of his or her employment. County will notify Contractor in writing of any findings supporting a determination of such improper expenditure and notify Contractor about such findings. Contractor shall reimburse County the amount of any such improper expenditure upon demand but such demand shall be subject to the paragraph entitled "DISPUTE AND ISSUE RESOLUTION", contained herein. If such amounts are unsuccessfully disputed, the Prime Interest Rate as published in the Wall Street Journal will accrue from the first business day of repayment demand.

I. No payment shall be made to Contractor if Contractor has any federal, state, or county liens outstanding. Should County discover a record of an outstanding lien, County shall immediately notify Contractor about the lien record, immediately investigate the circumstances, and determine a course of action within thirty (30) days of discovery. The Department may consider a repayment arrangement between Contractor and the lien-maker as reasonably satisfying this agreement stipulation. Contractor shall provide to County, within fifteen (15) days of request, a copy of the repayment arrangement document(s), the name of the contact person with the lien-maker agency that can verify the repayment arrangement, and a written statement explaining what resources Contractor is using to accomplish the repayment.

J. County will periodically evaluate Contractor's program(s) costs for the purpose of assessing the reasonableness of County's payments for services provided. Contractor will be provided reasonable notice if additional contractual and/or service delivery issues are to be reviewed. Contractor is expected to prepare necessary reports and other material to adequately explain Contractor's use of funds as specified in Exhibit C of this agreement. County may prescribe specific report formats and data content as deemed necessary at the sole discretion of County.

K. Monitoring and other reviews may be conducted by DHCS or other governing bodies in accordance with regulations in effect during this agreement. County will recoup payments for all claims disallowed from Contractor as authorized by Title IX of the California Code of Regulations (CCR), Chapter 11, Section 1810.380. Upon receiving notification of disallowed claims, County will send a demand notice to Contractor. Contractor shall reimburse County within thirty (30) days of the date of the demand notice. If disallowed claims are not paid to County within thirty (30) days of the date of the demand notice, County may exercise the option to withhold payments from Contractor until such time as payment is received in full. For all cases, County amounts withheld from Contractor shall be considered as payments to Contractor.

L. Contractor shall determine the availability of any third-party insurance or payer source (including Medi-Cal) available to client at admission and monthly thereafter and notify County if any is available. Medi-Cal verification must specify the name of the county that issued Medi-Cal benefits. Any changes must be provided to KernBHRS billing staff on a monthly basis. KernBHRS follows the guidance in MHSUDS Information Notice 17-036 regarding County of Responsibility. Medi-Cal verification must specify Kern as the county that issued Medi-Cal benefits. If an individual has Medi-Cal that originated in a different county, Contractor shall assist the individual to update benefit information to Kern County. Contractor shall inform Substance Use Disorder (SUD) Administration when such changes would pose a hardship for the individual and/or family members receiving other healthcare services in a different county.

5. PROGRAM DIRECTION, FISCAL AUDIT, INSPECTION, AND RETENTION OF RECORDS

A. County's mental health services program administrator, as defined in [Welfare and Institutions Code Section 5607](#), shall be the Director of KernBHRS. Contractor's services pursuant to this agreement shall be provided and performed under the Director's general guidance or his/her designated representative. It shall be Contractor's responsibility to determine the specific means and methodology for accomplishing the services required under this agreement.

B. Contractor agrees to maintain and make available to County all of its premises, physical facilities, documents, contracts, computers, other electronic systems, accurate books, and records relative to all activities of the organization, including client information, information related to Medi-Cal enrollees, Medi-Cal related activities and information included in personnel records, limited to that needed for the verification of credentialing, experience, background and payroll testing. Review of the organization's personnel files shall be subject to applicable confidentiality laws. Contractor shall maintain such data and records in an accessible location and condition for a minimum of ten (10) years after the close of the fiscal year in which services are rendered or until all audit issues are resolved, whichever is later, in accordance with [42 CFR 438.3\(h\)](#), [42 CFR 438.3\(u\)](#), and [Welfare and Institutions Code, Section 14124.1](#). The State of California and/or any federal agency having an interest in the subject of this agreement shall have the same rights conferred upon County herein.

C. BHRS, DHCS, Centers for Medicare/Medicaid Services ("CMS"), or the Health and Human Services ("HHS") Inspector General may inspect, evaluate, and audit Contractor at any time if there is a reasonable possibility of fraud or similar risk. The inspection shall occur at Contractor's place of business, premises, or physical facilities. Contractor shall make all of its books and records available, in a form maintained in accordance with general standards, applicable to such books or recordkeeping, for a term of at least ten (10) years from the close of the fiscal year in which the subcontract was in effect. Contractor will need to contact County to ensure the time period for retaining these records has been exceeded before record destruction occurs. Contractor shall inform KernBHRS of all scheduled and unscheduled audits that occur at Contractor's place of business related to the services in this agreement and provide copies of all results and reports to KernBHRS. Additionally, Contractor shall provide all results and/or audit reports to KernBHRS.

D. Contractor shall permit County to audit, examine, and make excerpts and transcripts from such records; and to conduct audits, reviews, and monitoring of Medi-Cal and financial records; and all other data related to matters covered by this agreement. At County's discretion, County may request that Contractor deliver by mail or electronic transmission to County, a copy of Contractor's accounting records prior to an on-site audit by County. Failure by Contractor to allow review shall be a material breach of this agreement by Contractor. County, at its sole option, may terminate this agreement and obtain damages from Contractor resulting from said breach, or County may exercise the option to withhold payments from Contractor until such time as all required documents are made available. Further, as one component of Medi-Cal records review and financial monitoring, Contractor may be required, at the sole option of County, to complete a Corrective Action Plan. County may exercise the option to withhold payments from the Contractor until such time as County accepts the Corrective Action Plan.

6. FINANCIAL SOLVENCY

Contractor shall maintain adequate provisions against the risk of insolvency.

7. TAX INFORMATION REPORTING

A. Contractor shall submit its signed IRS form W-9, "Request for Taxpayer Identification Number and Certification," or Social Security Number, whichever is applicable, to facilitate appropriate fiscal management and reporting, and to ensure compensation is paid to the proper party. A new W-9 will need to be completed every five (5) years.

B. Upon County's request, Contractor shall provide County with certain documents relating to Contractor's employee income tax withholding. These documents shall include, but not be limited to:

1. A copy of Contractor's federal and state quarterly income tax withholding returns, i.e., federal form 941 and state Form DE-9 or their equivalents.

2. A copy of a receipt for or other proof of payment of, each employee's federal and state income tax withholding, whether such payments are made on a monthly or quarterly basis.

8. COMPLIANCE WITH LAW

A. Contractor shall observe and comply with all applicable county, state, and federal laws, ordinances, rules, and regulations now in effect or hereafter enacted, each of which are hereby made a part hereof and incorporated herein by reference, including, but not limited to, [CCR Title 9, Chapter 11, Section 1810.436\(a\)\(1-5\)](#) and [42 CFR § 438.230\(c\)\(2\)](#), and [42 CFR § 438.3\(d\)\(3\)\(4\)](#).

9. FINANCIAL AND STATISTICAL RECORDS

A. Contractor shall maintain and preserve all fiscal records, documents, and correspondence related to this agreement for a minimum period of ten (10) years after the close of the fiscal year in which services are rendered, or ten (10) years after final payment is made (Medi-Cal or MHSA), or until all audit issues are resolved, whichever is latest.

B. Contractor shall maintain all financial, statistical, or accounting records associated with the provision of each type of service described in **Exhibit A** of this agreement, necessary to support the costs claimed pursuant to this agreement or any other federal or state reimbursement claim report forms. Moreover, Contractor shall maintain all statistical data necessary to support the allocation of such cost among programs or types of programs and/or among payers; shall maintain auditable records, in accordance with generally accepted accounting principles, reflecting the methods and calculations used to make such allocations; and shall maintain such other statistical data as shall be necessary to satisfy the requirements of state and federal law.

C. Contractor shall make any and all records, whether fiscal or other, generated pursuant to this agreement available for County's inspection. At County's discretion, County may request that Contractor deliver by mail or electronic transmission to County, a copy of Contractor's accounting records prior to an on-site audit by County. The State of California and/or federal agency having an interest in the subject of this agreement shall have the same rights conferred upon County herein.

10. ADDITIONAL PROVISIONS

A. Books and Records - Contractor shall maintain such books and records as are necessary to disclose how Contractor discharged its obligations under this agreement. These books and records shall identify the quantity of covered services provided under this agreement, the quality of those services, the manner and amount of payment made for those services, the beneficiaries who received

covered services, the manner in which Contractor administered the provision of specialty mental health services or substance use disorder services, and the cost thereof.

Such books and records shall include, but are not limited to, all physical records originated or prepared pursuant to performance under this agreement including working papers, reports submitted to the Department, financial records, all medical and treatment records, medical charts and prescription files, and other documentation pertaining to services rendered to beneficiaries.

These books and records shall be maintained for a minimum of ten (10) years after the final payment is made and all pending matters closed, or, in the event Contractor has been notified that the Department, DHCS, HHS, or the Comptroller General of the United States, or their duly authorized representatives, have commenced an audit or investigation of the agreement, until such time as the matter under audit or investigation has been resolved, including the exhaustion of all legal remedies, whichever is later.

Contractor shall include in any subcontract for a sum in excess of Ten Thousand Dollars (\$10,000), which utilizes state funds a provision that states: "The contracting parties shall be subject to the examination and audit of the Department or Auditor General for a period of ten (10) years after final payment under contract ([Government Code § 8546.7](#)).” Contractor shall also be subject to the examination and audit of the Department and the State Auditor General for a period of ten (10) years after final payment under contract ([Government Code § 8546.7](#)).

B. Transfer of Care - Prior to the termination or expiration of this agreement, and upon request by the Department, Contractor shall assist the state in the orderly transfer of mental health or substance use disorder care for beneficiaries in Kern County. In doing this, Contractor shall make available to the Department copies of medical records, patient files, and any other pertinent information, including information maintained by any subcontractor that is necessary for efficient case management of beneficiaries, as determined by the Department. Costs of reproduction shall be borne by the Department. In no circumstances shall a beneficiary be billed for this service.

C. Department Memos, DHCS Letters and Information Notices, and Requirements From State Contract Agreements - Contractor shall comply with all policy memos issued by the Department. Contractor shall also comply with DHCS Letters and Information Notices issued to all Mental Health Plans as defined in [California Code title 9, § 1810.226](#), County Alcohol and Drug Administrators, Substance Use Disorder (“SUD”) state plans and DMC-ODS plan, as such DHCS Letters and Information Notices remain in effect unless amended, repealed, or readopted by the Department. DHCS Letters and Information Notices shall provide specific details of procedures established for performance of contract terms when procedures not covered in this agreement are determined to be necessary for performance under this agreement but are not intended to change the basis and general terms of the agreement.

1. Contractor shall permit county to audit and monitor compliance with such regulations. Contractor may be required, at the sole option of the county, to complete a Corrective Action Plan. County may exercise the option to withhold payments from the Contractor until such time as County accepts the Corrective Action Plan”.

11. NOTICES

A. All notices required or provided for in this agreement shall be provided to the parties at the following addresses, by personal delivery or deposit in the U.S. Mail, postage prepaid, registered or certified mail, addressed as specified below. Notices delivered personally shall be deemed received

upon receipt; mailed or expressed notices shall be deemed received five (5) business days after deposit. A party may change the address to which notice is to be given by giving notice as provided below.

1. To County:

Kern Behavioral Health and Recovery Services
Attn: Director
PO Box 1000
Bakersfield, CA 93302-1000

cc: Contracts Management

2. To Contractor:

Signature Person
CONTRACTOR
Street Address
City, State ZIP

B. County requires Contractor to notify County thirty (30) days prior to any change in name, legal business status, corporate address, service site address, or Contractor's signatory power that occurs during the term of this agreement. At its option, County may choose to acknowledge a notice of these specific changes without a written amendment to the agreement.

C. Nothing in this Agreement shall be construed to prevent or render ineffective delivery of notices required or permitted under this agreement by personal service.

12. MANDATORY MEETINGS

Contractor is required to participate in a monthly provider meeting and other meetings that the KernBHRS Administrator may call. Meetings may be held at Contractor's site, at a County location, or through video conferencing as the KernBHRS Administrator determines. Meeting attendees must be familiar with and well-versed in the requirements of this agreement. Failure to comply with this requirement may lead to termination of the agreement.

13. CULTURAL COMPETENCE

Contractor shall comply with Cultural Competence requirements set forth by County, in accordance with [Welfare and Institutions Code Section 5600.2](#) and [CCR Title 9 Section 1810.410](#). Contractor shall participate in the Department's efforts to promote the delivery of services in a culturally and linguistically competent manner to all enrollees, including those with limited English proficiency and diverse cultural and ethnic backgrounds, disabilities, and regardless of gender, sexual orientation, or gender identity. Failure to comply with the following requirements may result in sanctions such as withholding of payments, corrective action notices, or any other actions deemed necessary to ensure contract and performance compliance (i.e., DHCS 10-02 and 10-17 and the Federal CLAS standards).

A. No later than thirty (30) days after the beginning date of the agreement, Contractor must use the provided cultural competence plan template and submit its agency's annual cultural competence plan to the Department's Ethnic Services Manager via the Cultural Competence email address CulturalCompetence@KernBHRS.org.

B. Contractor must submit its agency's Bilingual Quarterly Report prior to the fifteenth (15th) of the month following the close of the calendar quarter to their System of Care Administrator.

C. Contractor understands that its staff must receive at least six (6) hours of cultural competence training each year. Training that is not provided through the Department must have the pre-approval of the Department's Ethnic Services Manager. Department's Ethnic Services Manager via the Cultural Competence email address CulturalCompetence@KernBHRS.org. If Contractor has Board of Behavioral Sciences or similar authorization to provide continuing education units for training it provides, it may submit proof of such authorization to the Department's Ethnic Services Manager in lieu of obtaining training pre-approval.

D. KernBHRS will monitor Contractor's attendance of required Cultural Competence trainings through the Relias training system if Contractor utilizes this program. If Contractor does not utilize Relias, Contractor will need to develop an internal tracking mechanism to monitor their staff's attendance. This tracking system should be available for County to review at any time to ensure that these required trainings are being completed.

14. NON-DISCRIMINATION AND FAITHFUL PERFORMANCE

A. The parties mutually agree to abide by all federal, state, and local laws including, but not limited to, all laws respecting employment discrimination. Each party further agrees to fully and faithfully perform all covenants and portions of this agreement, and to take no action that may be inimical to the other party's faithful performance hereof.

B. Contractor shall provide services that incorporate the racial and ethnic values and beliefs of the client and shall deliver such services in a manner which meets the needs of the client and their families' lifestyles whenever possible.

C. Contractor shall have in place written policies regarding nondiscrimination on the basis of race, color, creed, etc., and shall include nondiscrimination and compliance provisions in all subcontracts. Contractor and its subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from discrimination and harassment.

15. EXCLUSION REPORTING

Contractor shall not knowingly have a relationship with any individual or entity who is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in any of such programs by any federal agency or by any department, agency, or political subdivision of the state.

16. REPORTING UNUSUAL OCCURRENCES

A. Contractor shall comply with KernBHRS policy 11.1.1, Unusual Occurrence Reporting (UOR). Contractor shall utilize the Unusual Occurrence Reporting application referenced in KernBHRS policy 11.1.1. No other variations of reporting will be accepted. Inpatient psychiatric facilities should continue to report unusual occurrences as outlined by the KernBHRS Crisis Administrator or their designee.

An unusual occurrence is any event or situation that has occurred at a service site or in the field that may have caused, or has the potential to cause, physical or psychological harm to clients who are receiving services from KernBHRS or contracted providers. This definition also applies to visitors

(i.e., individuals who are not directly receiving behavioral health services). An unusual occurrence that takes place in any type of work capacity must be reported.

In addition, an Unusual Occurrence report is required when:

1. A client may have injured a staff member, another client, or visitor;
2. A client makes a serious threat to harm another person;
3. There is a suspected violation of professional licensure and/or ethics.
4. There is an unauthorized/inappropriate release of PHI, PI, and/or PII; and/or
5. There is the possibility of threat or legal action and/or negative media attention for the department.

B. Principles: Unusual occurrences shall include but not be limited to:

1. Death other than by suicide;
2. Death by suspected or known suicide;
3. Suicide attempt requiring Emergency Medical Treatment (EMT);
4. Suicide threat with intent or plan;
5. Tarasoff Report, i.e., client makes a threat to harm another person;
6. Aggressive/Threatening or destructive behaviors;
7. Intentional injury (not suicide attempt) requiring EMT;
8. Seclusion, restraint, or emergency manual/chemical containment;
9. Client or visitor in possession of a weapon at the treatment site;
10. Client unintentionally injured another client or visitor at a KernBHRS site or work-related site;
11. Client injured in a vehicular accident during treatment activities;
12. Slip, trips, falls, non-serious accidents not requiring immediate medical attention;
13. Natural disaster, environmental hazard or biohazard exposure while at treatment site;
14. Medication prescription and/or administration errors;
15. Medical health incident requiring immediate/urgent medical attention;
15. Client exposed to communicable disease while at treatment site;
16. Client exposed to infections (BBP, OPIM) while at treatment site;

17. Allegations of neglect, verbal, physical, sexual assault of client/visitor as reported;
18. Client/visitor is a victim of physical, sexual or verbal assault as observed / witnessed by staff;
19. Client/visitor is a perpetrator of physical, sexual, or verbal assault as observed / witnessed by staff;
20. Unauthorized/inappropriate access, use, disclosure or storage of PHI, PI, and/or PII;
21. PHI, PI, and/or PII compromised due to inadequate security measures or theft;
22. Allegations of unethical relationships, behaviors, or other unprofessional conduct or licensure violation by staff;
23. Observation and/or information regarding questionable or inappropriate staff behavior related to client or visitor's care;
24. Possibility or threat of legal action and/or negative media attention;
25. Client at PEC longer than 23:59 hours;
26. AWOL from facility, elopement, or wandering;
27. Unauthorized use and/or possession of legal or illegal substances; and
28. Allegations of client/visitor's property loss as reported.

C. County retains the right to independently investigate unusual occurrences with the cooperation of Contractor.

17. CONFLICT OF INTEREST

A. Contractor shall comply with the conflict of interest safeguards described in [42 CFR Part 438.58](#) and the prohibitions described in Section [1902\(a\)\(4\)\(C\)](#) of the Act. ([42 CFR § 438.3\(f\)\(2\).](#))

B. Contractor's officers and employees shall not have a financial interest in this agreement, or a subcontract of this agreement made by them in their official capacity, or by anybody or board of which they are members unless the interest is remote. ([Gov. Code §§ 1090, 1091; 42 CFR § 438.3\(f\)\(2\).](#))

C. Contractor shall not utilize in the performance of this agreement any state or county officer or employee in the state or county civil service or other appointed state or county official unless the employment, activity, or enterprise is required as a condition of the officer or employee's regular state or county employment. ([Pub. Con. Code § 10410; 42 CFR § 438.3\(f\)\(2\).](#)) Contractor shall submit documentation to KernBHRS of employees (current and former state and county employees) who may present a conflict of interest.

D. The parties to this agreement have read and are aware of the provisions of [Section 1090, et seq.](#), and [Section 87100, et seq.](#), of the Government Code relating to conflict of interest of public officers and employees. Contractor agrees that it is unaware of any financial or economic interest of any public officer or employee of County relating to this agreement. It is further understood and agreed

that if such a financial interest does exist at the inception of this agreement, County may immediately terminate this agreement by giving written notice thereof. Contractor shall comply with the requirements of [Government Code Section 87100](#), et seq., during the term of this agreement.

18. DISCLOSURE OF OWNERSHIP AND CONTROL INTEREST STATEMENT

Contractor shall comply with the requirements pertaining to the Disclosure of Ownership and Control Interest Statement contained in Program Integrity Requirements,” and submit to County the “Disclosure of Ownership and Control Interest Statement.

19. TECHNOLOGY REQUIREMENTS

A. Contractor shall make reports as required by Director, Director’s designee, or state regarding Contractor’s activities and operations as they relate to Contractor’s performance under this agreement as specified in their Exhibit A.

1. Based on programmatic requirements, as specified in Exhibit A, Contractor shall enter information into the KernBHRS electronic health record.
2. Contractor shall provide any billing services, which are not part of the entry of clinical documentation using direct data entry as specified in Exhibit A.
3. Contractor’s staff shall be trained by the Department in the operation, procedures, policies, and all related uses of the KernBHRS electronic health record. In exceptional circumstances, the KernBHRS Administrator may authorize or direct Contractor to provide some or all elements of KernBHRS electronic health record training internally. The Technology Services Manager, or designee, must approve any requests for a contractor to provide any KernBHRS electronic health record training. Staff who have not been trained will not be provided with a username and will not have access to the KernBHRS electronic health record system.
4. Prior to the training, Contractor’s staff are to show proof of current Information Privacy and Information Security training completion. Staff who do not provide proof of current Information Privacy and Information Security training will be trained on use of the KernBHRS electronic health record but will not be provided with their username until Information Privacy and Information Security training is completed and verification submitted. The Director, or Director’s designee, shall endeavor to provide as much advance notice as possible of required data or other information to be reported, but in no event shall such notice be less than fifteen (15) working days.
5. Contractor’s staff who are required to be credentialed will not receive their user identification login for the **KernBHRS electronic health record** until KernBHRS receives the appropriate attestation from Contractor that all credentialing elements have been completed for each staff person. This attestation should be sent to Credentialing@kernbhrs.org. KernBHRS Credentialing team will submit this form for all of Contractor’s staff for whom KernBHRS completes the credentialing process.
6. Withholding of Payments for Non-submission of ITS and Other Information:

County may withhold a maximum of ten percent (10%) of any monthly claim for payment, if any data, periodic evaluation data, as described herein, or other information is not submitted by Contractor to KernBHRS within the time limits of submission as prescribed in this agreement or as specified by the Director, or Director’s designee, from time to time; or if any ITS data, periodic

evaluation data, or other information is incomplete, incorrect, or is not completed in accordance with the requirements of this agreement or as specified by the Director, or Director's designee. The Director or Director's designee shall endeavor to provide as much advance notice of required data as possible, but in no event shall such notice be less than fifteen (15) working days.

20. HIPAA/HITECH COMPLIANCE

A. During the term of this agreement, Contractor may receive from County, or may receive or create on behalf of County, certain confidential health or Medi-Cal information ("Protected Health Information" or "PHI"). This PHI is subject to protection under state and federal law, including the [Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 \("HIPAA"\)](#), the [Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 \("the HITECH Act"\)](#), and regulations promulgated thereunder by the [U.S. Department of Health and Human Services](#) (the "HIPAA Regulations") and other applicable laws. Contractor represents that it has in place policies and procedures that will adequately safeguard any PHI it receives or creates, and Contractor specifically agrees, on behalf of itself, its subcontractors, and agents, to safeguard and protect the confidentiality of PHI consistent with applicable law, including currently effective provisions of HIPAA, the HITECH Act, and the HIPAA Regulations.

B. For purposes of this section, PHI means any information, whether oral or recorded in any form or medium: (a) that relates to the past, present, or future physical or mental health condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual, and (b) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

C. The parties acknowledge that state and federal laws relating to electronic data security and privacy are rapidly evolving and that amendment of this agreement may be required to provide for procedures to ensure compliance with such developments. The parties hereto specifically agree to take such action as is necessary to implement the requirements of HIPAA, the HITECH Act, and HIPAA Regulations and other applicable laws relating to the security or confidentiality of PHI. The parties understand and agree that Contractor must provide to County, after request by County, written evidence that Contractor is in compliance with the HITECH Act and applicable HIPAA Regulations.

D. Notwithstanding any other provision of this agreement, County may terminate this agreement upon twenty (20) days' notice in the event: (a) Contractor does not promptly provide written evidence of compliance with the HITECH Act and applicable HIPAA Regulations, or (b) County becomes aware that Contractor or any of its subcontractors or agents discloses PHI in a manner that is not authorized by County or by applicable law.

21. CONFIDENTIALITY

A. Contractor, in accordance with [Title 45, CFR Regulations, Part 96, Section 96.132\(e\)](#), shall have in effect a system to protect from inappropriate disclosure of patient records maintained by Contractor, in connection with an activity funded under the program involved or by any entity, and such system shall be in compliance with all applicable state and federal laws and regulations, including [42 CFR Part 2, Substance Use Disorder and Treatment records](#). This system shall include provisions for employee education on the confidentiality requirements and the fact that disciplinary action may occur upon inappropriate disclosures.

B. Contractor shall not, without the written consent of the Department, communicate confidential information, designated in writing or identified in this agreement as such, to any third party and shall

protect such information from inadvertent disclosure to any third party in the same manner that it protects its own confidential information, unless such disclosure is required in response to a validly issued subpoena or other process of law. The provisions of this paragraph shall survive the termination of this agreement.

C. Contractor, in accordance with [California Welfare and Institutions Code section 5328](#), shall have in effect a system to protect from inappropriate access to, or disclosure of PHI. If a provision of state law relating to the privacy of individually identifiable health information is more stringent than a HIPAA standard, the state law preempts HIPAA federal regulations ([45 CFR § 160.203\(b\)](#)).

22. INDEMNIFICATION

Contractor agrees to indemnify, defend, and hold harmless County and County's agents, board members, elected and appointed officials and officers, employees, volunteers, and authorized representatives from any and all losses, liabilities, charges, damages, claims, liens, causes of action, awards, judgments, cost, and expense (including, but not limited to, reasonable attorneys' fees of County Counsel and counsel retained by county, expert fees, costs of staff time, and investigation costs) of whatever kind or nature, that arise out of or are in any way connected with any act or omission of Contractor or Contractor's officers, agents, employees, independent contractors, subcontractors of any tier, or authorized representatives. Without limiting the generality of the foregoing, the same shall include bodily and personal injury or death to any person or persons; damage to any property, regardless of where located, including the property of County; and any workers' compensation claim, or suit arising from or connected with any services performed pursuant to this agreement on behalf of Contractor by any person or entity.

23. IMMIGRATION REFORM AND CONTROL ACT

Contractor, and all subcontractors hired by Contractor to perform services under this agreement, are aware of and understand [the Immigration Reform and Control Act \("IRCA"\) of 1986, Public Law 99-603](#). Contractor is and shall remain in compliance with IRCA and shall ensure that any subcontractors hired by Contractor to perform services under this agreement are in compliance with IRCA. In addition, Contractor agrees to indemnify, defend, and hold harmless County, its agents, officers, and employees, from any liability, damages, or causes of action arising out of or relating to any claims that Contractor's employees, or the employees of any subcontractor hired by Contractor, are not authorized to work in the United States for Contractor or its subcontractor and/or any other claims based upon alleged IRCA violations committed by Contractor or Contractor's subcontractor(s).

24. INSURANCE

Contractor, in order to protect County and its board members, officials, agents, officers, and employees against all claims and liability for death, injury, loss, and damage as a result of Contractor's actions in connection with the performance of Contractor's obligations, as required in this agreement, shall secure and maintain insurance as described below. Contractor shall not perform any work under this agreement until Contractor has obtained all insurance required under this section, and the required certificates of insurance and all required endorsements have been filed with the Department's Contracts Division. Receipt of evidence of insurance that does not comply with all applicable insurance requirements shall not constitute a waiver of the insurance requirements set forth herein.

The required documents must be signed by the authorized representative of the insurance company shown on the certificate. Upon request, Contractor shall supply proof that such person is an

authorized representative thereof and is authorized to bind the named underwriter(s) and their company to the coverage, limits and termination provisions shown thereon.

Contractor shall promptly deliver to the Department's Contracts Division certificates of insurance, and all required endorsements, with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the term specified herein. Such certificates and endorsements shall be delivered to Department's Contracts Division prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof if so requested. Contractor shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any claim by Contractor or County as an additional insured.

A. Workers' Compensation and Employers Liability Insurance Requirements:

In the event Contractor has employees or volunteers who may perform any services pursuant to this agreement, Contractor shall submit written proof that Contractor is insured against liability for workers' compensation in accordance with the provisions of section [3700 of the California Labor Code](#).

Contractor shall require any subcontractors to provide workers' compensation for all of the subcontractors' employees, unless the subcontractors' employees are covered by the insurance afforded by Contractor. If any class of employees engaged in work or services performed under this agreement is not covered by [California Labor Code section 3700](#), Contractor shall provide and/or require each subcontractor to provide adequate insurance for the coverage of employees not otherwise covered.

Contractor shall also maintain employer's liability insurance with limits of **ONE MILLION DOLLARS (\$1,000,000)** for bodily injury or disease.

B. Liability Insurance Requirements:

Contractor shall maintain in full force and effect, at all times during the term of this agreement, the following insurance:

a. Commercial General Liability Insurance including, but not limited to, Contractual Liability Insurance (specifically concerning the indemnity provisions of this agreement with the county), Products-Completed Operations Hazard, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of Contractor's performance of work under this agreement. The Commercial General Liability insurance shall contain no exclusions or limitation for independent contractors working on the behalf of the named insured. Contractor shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by law following termination of this agreement. The amount of said insurance coverage required by this agreement shall be the policy limits, which shall be at least **ONE MILLION DOLLARS (\$1,000,000) each occurrence and TWO MILLION DOLLARS (\$2,000,000) aggregate**.

b. Automobile Liability Insurance against claims of Personal Injury (including bodily injury and death) and Property Damage covering any vehicle and/or all owned, leased, hired and non-owned vehicles used in the performance of services pursuant to this agreement with coverage equal to the policy limits, which shall be at least **ONE MILLION DOLLARS (\$1,000,000) each occurrence**.

c. Professional Liability (Errors and Omissions) Insurance, for liability arising out of, or in connection with, the performance of all required services under this agreement, with coverage

equal to the policy limits, which shall not be less than **ONE MILLION DOLLARS (\$1,000,000) per occurrence and THREE MILLION DOLLARS (\$3,000,000)** aggregate.

The Commercial General Liability insurance required in this sub-paragraph B shall include an endorsement naming County and County's board members, officials, officers, agents and employees as additional insureds for liability arising out of this agreement and any operations related thereto. Said endorsement shall be provided using one of the following three options: (i) on Insurance Services Office (ISO) form Commercial General (CG) 20 10 11 85; or (ii) on ISO form CG 20 37 10 01 plus either ISO form CG 20 10 10 01 or CG 20 33 10 01; or (iii) on such other forms which provide coverage at least equal to or better than form CG 20 10 11 85.

C. Any self-insured retentions in excess of **ONE HUNDRED THOUSAND DOLLARS (\$100,000)** must be declared on the Certificate of Insurance or other documentation provided to county and must be approved by the County Risk Manager.

D. If any of the insurance coverages required under this agreement is written on a claims-made basis, Contractor, at Contractor's option, shall either (i) maintain said coverage for at least three (3) years following the termination of this agreement with coverage extending back to the effective date of this agreement; (ii) purchase an extended reporting period of not less than three (3) years following the termination of this agreement; or (iii) acquire a full prior acts provision on any renewal or replacement policy.

E. Cancellation of Insurance – The above-stated insurance coverages required to be maintained by Contractor shall be maintained until the completion of all of Contractor's obligations under this agreement except as otherwise indicated herein. Each insurance policy supplied by the Contractor must be endorsed to provide that the coverage shall not be suspended, voided, canceled or reduced in coverage or in limits except after ten (10) days written notice in the case of non-payment of premiums, or thirty (30) days written notice in all other cases. Such notice shall be by certified mail, return receipt requested. This notice requirement does not waive the insurance requirements stated herein. Contractor shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.

F. All insurance shall be issued by a company or companies admitted to do business in the State of California and listed in the current "Best's Key Rating Guide" publication with a minimum rating of A-;
VII. Any exception to these requirements must be approved by the County's Risk Manager.

G. If Contractor is, or becomes during the term of this agreement, self-insured or a member of a self-insurance pool, Contractor shall provide coverage equivalent to the insurance coverages and endorsements required above. County will not accept such coverage unless County determines, in its sole discretion and by written acceptance, that the coverage proposed to be provided by Contractor is equivalent to the above-required coverages.

H. All insurance afforded by Contractor pursuant to this agreement shall be primary to and not contributing to all insurance or self-insurance maintained by County. An endorsement shall be provided on all policies, except professional liability/errors and omissions, which shall waive any right of recovery (waiver of subrogation) against the county.

I. Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve Contractor for any liability, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall it preclude County from

taking such other actions as are available to it under any other provision of this agreement or otherwise in law.

J. Failure by Contractor to maintain all such insurance in effect at all times required by this agreement shall be a material breach of this agreement by Contractor. County, at its sole option, may terminate this agreement and obtain damages from Contractor resulting from said breach. Alternatively, County may purchase such required insurance coverage, and without further notice to Contractor, County shall deduct from sums due to Contractor any premiums and associated costs advanced or paid by County for such insurance. If the balance of monies obligated to Contractor pursuant to this agreement is insufficient to reimburse County for the premiums and any associated costs, Contractor agrees to reimburse County for the premiums and pay for all costs associated with the purchase of said insurance. Any failure by County to take this alternative action shall not relieve Contractor of its obligation to obtain and maintain the insurance coverages required by this agreement.

25. SUBROGATION

In the event a beneficiary is injured by the act or omission of a third party, or has a potential or existing claim for a workers' compensation award, or a claim/recovery through uninsured motorist coverage, the right to pursue subrogation and the receipt of payments shall be as follows:

A. Contractor may submit to the Department claims for Medi-Cal covered services rendered, but Contractor shall not make claims to or attempt to recoup the value of these services from the above-referenced entities.

B. Contractor shall notify the Department within ten (10) days of discovery of all cases that could reasonably result in recovery by the beneficiary of funds from a third-party, third-party insurance carrier, workers' compensation award, and/or uninsured motorist coverage.

26. REPRESENTATIONS

Contractor makes the following representations, which are agreed to be material to and form a part of the inducement of this agreement:

A. Contractor has the expertise, training, and experience necessary to provide the services described in this agreement; and

B. Contractor does not have any actual or potential interest adverse to County nor does Contractor represent a person or firm with an interest adverse to County with reference to the subject of this agreement; and

C. Contractor is willing and able to diligently provide all required services in a timely and professional manner in accordance with the terms and conditions stated in this agreement; and

D. Contractor shall provide a beneficiary's choice of the person providing services to the extent feasible in accordance with [California Code of Regulations, Title 9, Section 1830.225 and 42 CFR Part 438.3\(l\)](#).

27. POLITICAL-RELIGIOUS ACTIVITY

A. No person performing any service or providing any goods designated under this Contract shall participate in any political or religious activity on County time or in any manner involving the use of county property or expenditure of public funds nor conveying the implication of County endorsement or support for a candidate for local, state, or federal office.

B. Notwithstanding the foregoing, nothing in this Contract shall be construed to unlawfully limit an individual's Constitutional rights. Accordingly, the limitations contained in this section are for the sole purpose of preventing proselytizing and politicking while engaged in the performance of services under this Contract.

28. NON-ASSIGNMENT AND SUBCONTRACTING

A. Contractor shall not assign, sublet, or transfer this agreement, or any part hereof, nor assign any monies due or that become due to Contractor under this agreement, without the prior written or electronic and express approval of County.

B. Functions undertaken by Contractor may be carried out under subcontracts only upon obtaining the prior written approval of County. All such subcontracts shall be in writing and shall abide by such federal, state, and local laws and regulations that pertain to this agreement. No subcontract shall terminate or lessen the legal responsibility of Contractor to County to ensure that all activities under this agreement will be carried out.

C. This section is applicable to only those subcontracts entered into by Contractor, the purpose of which is to provide services required under this agreement, and not to any other contracted services obtained by Contractor.

D. Individuals subcontracted to work within contracted programs, who are working under programmatic supervision of Contractor, may be subject to the pre-approval requirement, as determined by County.

E. Subcontracting requirements contained in the agreement between the California Department of Health Care Services (DHCS) and County of Kern specify the following:

1. No subcontract terminates the legal responsibility of County to the state to ensure all activities under this contract are carried out.

2. All inpatient subcontracts shall require that subcontractors maintain necessary licensing and certification.

3. No person performing any service or providing any goods designated under this Contract shall participate in any political or religious activity on County time or in any manner involving the use of county property or expenditure of public funds nor conveying the implication of County endorsement or support for a candidate for local, state, or federal office. Notwithstanding the foregoing, nothing in this Contract shall be construed to unlawfully limit an individual's Constitutional rights. Accordingly, the limitations contained in this section are for the sole purpose of preventing proselytizing and politicking while engaged in the performance of services under this Contract

4. Each subcontract shall contain:

- a. Full disclosure of the method and amount of compensation or other consideration to be received by the subcontractor from County.
- b. Specification of the services to be provided.
- c. Specification that the subcontract shall be governed by County and construed in accordance with all laws and regulations and all contractual obligations of County to the state DHCS.
- d. Specification of the term of the subcontract including the beginning and ending dates, as well as methods for amendment, termination and, if applicable, extension of the subcontract. The subcontract must be subject to full or partial termination if Contractor's performance is inadequate.
- e. Contractor's agreement to make all of its books and records, contracts, computer or other electronic systems of the subcontractor, or of the subcontractor's Contractor pertaining to the goods and services furnished or determination of amounts payable under the terms of the subcontract available for inspection, examination, evaluation, or copying by the Department, DHCS, United States Department of Health and Human Services (HHS), the Comptroller General of the United States, and other authorized federal and state agencies, or their duly authorized representatives.
- f. The subcontract shall also state that inspection shall occur at all reasonable times, at Contractor's place of business, or at such other mutually agreeable location in California, in a form maintained in accordance with the general standards applicable to such book or record keeping, for a term of at least ten (10) years from the close of the state fiscal year in which the subcontract was in effect or from the date of completion or any audit, whichever is later. If the Department, DHCS, HHS, or the Comptroller General of the United States determines that there is a reasonable possibility of fraud or similar risk, they may inspect, evaluate, and audit the subcontractor at any time.
- g. Contractor's agreement that assignment or delegation of the subcontract shall be void unless prior written approval is obtained from County.
- h. Contractor's agreement to hold harmless both the state and beneficiaries in the event the County cannot or does not pay for services performed by the subcontractor pursuant to the subcontract.
- i. Contractor's agreement to comply with County's policies and procedures on advance directives and County's obligations for Physician Incentive Plans, if applicable based on the services provided under the subcontract.
- j. A requirement that County monitors Contractor and Contractor's obligation to provide a corrective action plan if deficiencies are identified.

29. NO THIRD-PARTY BENEFICIARIES

It is expressly understood and agreed that the enforcement of these terms and conditions and all rights of action relating to such enforcement, shall be strictly reserved to County and Contractor. Nothing contained in this agreement shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of County and Contractor that any such person or entity,

other than County or Contractor, receiving services or benefits under this agreement shall be deemed an incidental beneficiary only.

30. AUTHORITY TO BIND COUNTY

It is understood that Contractor, in Contractor's performance of any and all duties under this agreement, except as otherwise provided in this agreement, has no authority to bind County to any agreements or undertakings.

31. DISPUTE AND ISSUE RESOLUTION

A. Should a dispute occur concerning Contractor's performance or Contractor's interpretation of specific terms of this agreement, including, but not limited to, the validity of overpayment demands and proposed budget modifications, Contractor shall notify the KernBHRS Administrator of this issue within sixty (60) days of its occurrence. Such notification shall include specific identification of the issue(s) under dispute, Contractor's factual basis for the issue, Contractor's proposed solutions, and the documentary support for the solutions.

B. The KernBHRS Administrator shall have fifteen (15) workdays from receipt of the notification to render a decision on the dispute. The KernBHRS Administrator may convene a conference between County and Contractor as part of the decision-making process. The KernBHRS Administrator and Contractor may agree to extend the time period for a decision by the execution of a written memorandum, signed by the parties, specifying the new time period. The decision made by the KernBHRS Administrator shall be in writing and shall contain sufficient factual data and documentary evidence to reasonably explain the decision.

C. If Contractor disputes the decision made by the KernBHRS Administrator, Contractor may request that the Director of KernBHRS, or the Director's designee, review the decision. Such request shall be in writing and received by the Director, or the Director's designee, within five (5) workdays of the date of the KernBHRS Administrator's decision. Such request shall include identification of the items under dispute, Contractor's proposed solutions in summary form, the date of the KernBHRS Administrator's decision and any additional information Contractor deems necessary in support of its position. The Director, or the Director's designee, shall have fifteen (15) workdays from the date of receipt of Contractor's request to render a final administrative decision. The Director, or the Director's designee, may convene a conference between County and Contractor as a part of the decision-making process. The decision of the Director, or the Director's designee, shall be the final administrative decision. Nothing in this agreement prevents Contractor from seeking judicial review of such a final administrative decision.

D. Pending conclusion of any dispute, the interpretation placed upon the agreement by County will govern operation hereunder, and Contractor shall proceed diligently with the performance of the agreement, except that Contractor may terminate this agreement in the manner set forth herein.

E. Contractor Appeal Process

Contractor may appeal a denied or modified request for County payment authorization or a dispute with County concerning the processing or payment of a provider's claim to county.

1. The written appeal shall be submitted to County within ninety (90) calendar days of the date of receipt of the non-approval of payment or within ninety (90) calendar days of County's failure to

act on the request in accordance with time frames required by the [California Code of Regulations, Title 9, "Provider Appeal Process."](#)

2. County has sixty (60) calendar days from its receipt of the appeal to inform Contractor in writing of the decision, including a statement of the reasons for the decision that addresses each issue raised by Contractor, and any action required by Contractor to implement the decision.
3. If the appeal is not granted in full, Contractor shall be notified of any right to submit an appeal to the state as required by the [California Code of Regulations, Title 9.](#)
4. If applicable, Contractor shall submit a revised request for County payment authorization within thirty (30) calendar days from receipt of County's decision.
5. If applicable, County shall have fourteen (14) calendar days from the date of receipt of Contractor's revised request for County payment authorization to submit the documentation to the Medi-Cal fiscal intermediary that is required to process County's payment authorization.
6. If County does not respond within sixty (60) calendar days to the appeal, the appeal shall be considered denied in full by the Mental Health Plan (MHP) and DMC ODS.

32. CHOICE OF LAW AND VENUE

The parties hereto agree that the provisions of this agreement will be construed pursuant to the laws of the state of California. This agreement has been entered into and is to be performed in the County of Kern. Accordingly, the parties agree that the venue of any action relating to this agreement shall be in the County of Kern.

33. NON-WAIVER

No covenant or condition of this agreement can be waived except by the written consent of County. Forbearance or indulgence by County in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by Contractor. County shall be entitled to invoke any remedy available to County under this agreement or by law or in equity despite said forbearance or indulgence.

34. ENFORCEMENT OF REMEDIES

No right or remedy herein conferred upon or reserved to County is exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder, now or hereafter existing by law or in equity or by statute or otherwise and may be enforced concurrently or from time to time.

35. CAPTIONS AND INTERPRETATION

A. Paragraph headings in this agreement are used solely for convenience and shall be wholly disregarded in the construction of this agreement.

B. No provision of this agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this agreement shall be construed as if jointly prepared by the parties.

36. TIME OF ESSENCE

Time is hereby expressly declared to be of the essence of this agreement and of each and every provision hereof, and each such provision is hereby made and declared to be a material, necessary, and essential part of this agreement.

37. COUNTERPARTS

This agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instruments.

38. NON-COLLUSION COVENANT

Contractor represents and agrees that it has in no way entered into any contingent fee arrangement with any firm or person concerning the obtaining of this agreement with County. Contractor has not received from County any incentive or special payments, or considerations not related to the provision of services under this agreement.

39. ENTIRE AGREEMENT

This document, including all attachments hereto, contains the entire agreement between the parties relating to the services, rights, obligations, and covenants contained herein and assumed by the parties respectively. No inducements, representations, or promises have been made, other than those recited in this agreement. No oral promise, modification, change, or inducement shall be effective or given any force or effect.

40. NEGATION OF PARTNERSHIP

In the performance of all services under this agreement, Contractor shall be, and acknowledges that Contractor is, in fact and law, an independent contractor and not an agent or employee of County. Contractor has and retains the right to exercise full supervision and control of the manner and methods of providing services to County under this agreement. Contractor retains full supervision and control over the employment, direction, compensation, and discharge of all persons assisting Contractor in the provision of services under this agreement. With respect to Contractor's employees, if any, Contractor shall be solely responsible for payment of wages, benefits, and other compensation, compliance with all occupational safety, welfare, and civil rights laws, tax withholding and payment of employee taxes, whether federal, state, or local, and compliance with any and all other laws regulating employment.

41. SEVERABILITY

Should any part, term, portion, or provision of this agreement be decided finally to be in conflict with any law of the United States or the State of California, or otherwise be unenforceable or ineffectual, the validity of the remaining parts, terms, portions, or provisions shall be deemed severable and shall not be affected thereby, provided such remaining portions or provisions can be construed in substance to constitute the agreement that the parties intended to enter into in the first instance.

42. TERMINATION

Either party may terminate this agreement in whole, with or without cause, upon thirty (30) days' prior written notice to the other party. In the event of termination of this agreement for any reason, County

shall have no further obligation to pay for any services rendered or expenses incurred by Contractor after the effective date of the termination, and Contractor shall be entitled to receive compensation for services satisfactorily rendered, calculated on a prorated basis up to the effective date of termination. Should DHCS or any other oversight agency or KernBHRS determine that the delivery of service is unsatisfactory, KernBHRS may terminate the agreement in part or in whole.

43. IMMEDIATE TERMINATION

Notwithstanding the foregoing, County shall have the right to terminate this agreement effective immediately after giving written notice to Contractor in the event County determines that Contractor does not have the proper credentials, experience, or skill to perform the required services under this agreement; or in the event that continuation by Contractor in the providing of services may result **(i)** in civil, criminal, or monetary penalties against County, **(ii)** in the breach of any federal or state or regulatory rule or regulation or condition of accreditation or certification, or **(iii)** in the loss or threatened loss of County's ability to participate in any federal or state health care program, including Medicare or Medi-Cal.

44. REQUIRED DOCUMENTS

A. Agreements That Are Renewed Annually: Contractor shall submit all required documents to the Contract Monitoring Unit before KernBHRS sends the contract to the Board of Supervisors or County Purchasing Manager to be executed. Required documents include but are not limited to: Pre-Award Risk Assessment, and Disclosure of Ownership Form.

1. If applicable, Telehealth Attestations are collected each year, upon initial contact.

B. Multi-Year Agreements: Contractor shall submit all required documents to the Contract Monitoring Team on or before or before March 1 annually. Failure to submit the required documents in a timely manner shall be deemed a material breach of this agreement and may result in termination of the agreement.

45. SIGNATURE AUTHORITY

Each party has full power and authority to enter into and perform this agreement, and the person signing this agreement on behalf of each party has been properly authorized and empowered to enter into this agreement.

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IN WITNESS TO WHICH, each party to this agreement has signed this agreement upon the date indicated, and agrees for itself, its employees, officers, partners, and successors, to be fully bound by all terms and conditions of this agreement.

APPROVED AS TO CONTENT:
Behavioral Health and Recovery Services

COUNTY OF KERN
Board of Supervisors

By: _____
Alison Burrowes, LCSW Director

By: _____
Chairman

APPROVED AS TO FORM:
Office of the County Counsel

CONTRACTOR

By: _____
_____, Deputy

By: _____
Signature Person, Title
“Contractor”

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AGREEMENT FOR PROFESSIONAL SERVICES

(COUNTY OF KERN – CONTRACTOR NAME)

(_____ SERVICES)

CONTRACT EXHIBITS

Applicable Contract Exhibits will be discussed and added to the contract during contract negotiations.



ADMINISTRATIVE BULLETIN NO. 19

Issued: January 23, 2024

SUBJECT: FREE SPEECH POLICY

Purpose

The purpose of this Free Speech Policy is to inform all employees, employment applicants, and contractors of their constitutional rights to free speech, to petition the government for redress of grievances, to instruct representatives, and to freely associate and assemble. Unlawful discrimination based on the exercise of these rights is unacceptable and incompatible with the County's standards, as well as being a violation of the law. This Free Speech Policy also establishes the complaint and investigation procedure for alleged violations of these rights.

First Amendment Rights

Every County employee, employment applicant, and contractor has a constitutional right to free speech, to petition the government for redress of grievances, to instruct representatives, and to freely associate and assemble. ¹ For simplicity, this policy shall refer to such rights as "First Amendment Rights."

Every County employee, employment applicant, and contractor shall be free from any unlawful discrimination or retaliation by the County of Kern for exercising their First Amendment Rights while employed, while seeking employment, or while doing or seeking to do business for or with the County.

Free Speech Policy

The County of Kern remains committed to creating a professional environment in which the First Amendment Rights of all County employees, employment applicants, and contractors are protected.

It is a violation of the Constitutions of the United States and California for the County to unlawfully discriminate against County employees, employment applicants, or contractors because they exercised their First Amendment Rights.

Every County employee, and other person acting on behalf of the County, including members of the Board of Supervisors, is prohibited from unlawfully discriminating against, harassing, or retaliating against an employee, employment applicant, or contractor because the employee, employment applicant, or contractor exercised their First Amendment Rights, or because they filed a complaint or participated in an investigation under this Free Speech Policy.

¹ California Constitution, article I, sections 2(a) and 3(a); U.S. Constitution, amend. I.

All County employees and other persons acting on behalf of the County, including members of the Board of Supervisors, shall uphold and abide by this Free Speech Policy by cooperating fully in any investigation of a complaint of unlawful discrimination, harassment, or retaliation under this Free Speech Policy.

Persons in positions of authority, including managers and supervisors, shall act immediately on potential violations of this Free Speech Policy. They are responsible for knowing and enforcing this Policy and creating and maintaining a workplace free of discrimination, harassment, and retaliation, and should address potential problems before they become serious.

This Free Speech Policy applies at every level of the County and to every aspect of the workplace environment, including but not limited to, County events that occur outside of the physical workplace.

This Free Speech Policy shall be posted on the Kem County websites and in designated physical locations, and shall be attached to all County-issued Requests for Proposals (RFPs) and other solicitations for contract or grant proposals, County contracting forms and templates, and relevant notices to employees, employment applicants, and contractors.

Examples of unlawful discrimination:

- A department head recommends that a contract not be renewed because the contractor is politically active, regardless of their political position.
- A supervisor declines to recommend a supervisee for a promotion, or assigns a supervisee to less favorable job duties or to a less favorable location, because of the supervisee's union activity.
- A manager gives a supervisee poor job evaluations because the manager does not agree with their supervisee's political views.
- A county decision-maker declines to award a contract to provide social services to a particular community based organization because that organization actively campaigns for a particular bill or social movement.
- A county decision maker stops communicating with a potential contractor about a contract because the contractor has threatened to file lawsuit against the County in an unrelated case.

The California and U.S. Constitutions also provide specific First Amendment protection for County elected officials and other persons acting on behalf of the County, including volunteers and interns. This policy does not address such persons' rights.

Complaint and Investigation Procedure

Each employee, employment applicant, or contractor who believes that they have experienced unlawful discrimination or harassment described in this Policy may file a written complaint setting forth the specific facts and evidence supporting the complaint with the County Complaint Coordinator (see below). Such complaints shall be promptly forwarded to the Free Speech Retained Expert (see below). The complainant shall provide all documentary evidence, names of potential witnesses, and any other information believed by the complainant to be relevant to the complaint.

The County Complaint Coordinator shall initiate a formal investigation of the allegations in the complaint, interview all witnesses to the incident giving rise to the complaint (including the complainant and the person(s)

against whom the complaint is directed), and issue written findings as to the merits of the complaint and the remedies that should be implemented to resolve the complaint under existing County ordinances, policies, and procedures. The County Complaint Coordinator shall have a period of not more than 75 business days from receipt of the complaint to conduct the investigation and to issue appropriate draft findings and recommended remedies. The 75-day time period may be extended due to the unavailability of a material witness, or with the written agreement of the complainant.

The County Complaint Coordinator shall provide the draft findings and recommended remedies to the Free Speech Retained Expert for review and approval. The County Complaint Coordinator shall also provide the Free Speech Retained Expert with a copy of the complaint, all information and documentary evidence provided by the complainant, all witness interview materials and documents provided by witnesses, and all information and documentary evidence developed by the County Complaint Coordinator in conducting the investigation.

In the event that the Free Speech Retained Expert does not approve the County Complaint Coordinator's draft findings and recommended remedies, the Free Speech Retained Expert shall prepare a written explanation of the reasons for non-approval. The Free Speech Retained Expert and County Complaint Coordinator shall meet and confer to resolve any disagreement or deficiencies, and both parties shall state their positions in writing. The County Complaint Coordinator shall then take all necessary steps to correct any deficiencies and re-submit the draft findings and recommended remedies to the Free Speech Retained Expert for review and approval.

In the case of any complaints in which there is an appearance of bias, conflict of interest, or insufficient independence with regard to the handling of the complaint by the County Complaint Coordinator, the Backup Complaint Coordinator (see below) shall conduct the investigation, and the Free Speech Retained Expert shall review and approve in the same manner as any investigation conducted by the County Complaint Coordinator.

The Free Speech Retained Expert shall conduct the investigation if both the Complaint Coordinator and the Backup Complaint Coordinator are conflicted. The County shall implement the Free Speech Retained Expert's findings and remedies.

Department heads shall be responsible for ensuring that all new employees and contract staff in their department receive a copy of this policy and sign an acknowledgment which shall be retained in the employee's personnel file (or a similar file for contract staff). In addition, department heads shall ensure that, on an annual basis, each employee in their department receives a copy of this policy and that an acknowledgment of receipt is contained in each employee's personnel file.

Department heads may establish departmental policies and internal complaint procedures provided that those policies and procedures are consistent with this Policy. Nothing in this Policy shall abrogate any legal evidentiary standards in a court of law.

Complaints Within the Scope of Civil Service Commission Rule 1810.00, et seq.

The Kem County Rules of the Civil Service Commission ("Civil Service Rules") provide a voluntary complaint procedure for some complaints that fall within the scope of this Policy. These Civil Service Rules apply to civil service employees or applicants for civil service employment complaining of unlawful discrimination, harassment, or retaliation based on religious, union, or political affiliation, or due to their participation in a government investigation.

A complainant whose complaint falls within the scope of both the Civil Service Rules and this Policy may choose to file their complaint using the procedure described in the Civil Service Rules, commencing at section 1820.00, or using the procedure otherwise described in this Policy, but not both. If a complainant invokes both procedures for the same complaint, the complainant shall be required to make a written election of which procedure they wish to have apply.

The Free Speech Retained Expert will review all such complaints consistent with the time limitations, procedure, and appellate rights set forth in Civil Service Rule 1820.00. The Free Speech Retained Expert will review and approve findings of fact and recommended remedies issued by the Equal Employment Opportunity Officer.

Under Civil Service Rule 1830.00-1830.02, either the complainant or the County may request a hearing before the Civil Service Commission. The Free Speech Retained Expert does not review the Civil Service Commission's decision for approval but will provide a report to the County and complainant regarding any comments, concerns, or recommendations related to the Commission's final decision, within 60-120 days of that decision.

County Complaint Coordinator: Sarah Gutierrez, Director of Diversity, Equity and Inclusion; (661) 868-3919; gutierrezsa@kerncounty.com

Backup County Complaint Coordinator: Mercedes Perez, Senior Human Resources Specialist; (661) 868-3915; perezmer@kerncounty.com

Free Speech Retained Expert:

Barry McDonald, (310) 506-4668; barry.mcdonald@pepperdine.edu

Apm/AB/AB-19_01-23-2024

By my signature below, I acknowledge that I have received and reviewed this Free Speech Policy (AB19) and I understand that a copy will be placed into my personnel file.

Printed Name

Employee Signature

Date